

**ZONING ORDINANCE  
FOR THE CITY OF  
YUTAN, NEBRASKA  
1/3/2023**

Amended March 25, 2025 (Ordinance #813) – Changes to Supplemental Regulations: Signs

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**ARTICLE 1: TITLE AND PURPOSE**

**Section 1.01 Title**

This Ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the City of Yutan, Nebraska.

**Section 1.02 Purpose**

This ordinance has been made in accordance with a comprehensive plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

**ARTICLE 2: DEFINITIONS**

**Section 2.01 Rules**

For the purpose of this ordinance the following rules shall apply:

- 2.01.01 Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
- 2.01.02 The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.
- 2.01.03 The word "shall" is mandatory.
- 2.01.04 The word "may" is permissive.
- 2.01.05 The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
- 2.01.06 The word "commission" shall refer to the City of Yutan Planning Commission.
- 2.01.07 The phrase Zoning Administrator shall refer to the Zoning Administrator for the City of Yutan.
- 2.01.08 The word "Inspector" shall refer the Building Inspection Department and any employee of said department
- 2.01.09 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.
- 2.01.10 The word "council" shall mean the City Council of Yutan, Nebraska.

**Section 2.02 Abbreviation and Acronyms**

For purposes of this Ordinance, the following shall be standard abbreviations and acronyms found through the regulation.

- 2.02.01 AU = Animal Unit
- 2.02.02 CAFO = Confined Animal Feeding Operation
- 2.02.03 FCC = Federal Communication Commission
- 2.02.04 FT = Foot or Feet
- 2.02.05 GIS = Geographic Information System
- 2.02.06 kV = Kilovolt
- 2.02.07 kW = Kilowatt
- 2.02.08 LFO = Livestock Feeding Operation
- 2.02.09 NDA = Nebraska Department of Aeronautics or successor department
- 2.02.10 NDEQ = Nebraska Department of Environmental Quality or successor department
- 2.02.11 NSFM = Nebraska State Fire Marshall or successor department
- 2.02.12 NHHS = Nebraska Department of Health and Human Services or successor department
- 2.02.13 NDOR = Nebraska Department of Roads or successor department
- 2.02.14 R.O.W. = Right-of-Way or Rights-of-Way
- 2.02.15 SF = Square Feet
- 2.02.16 SY = Square Yard
- 2.02.17 USDA = United States Department of Agriculture
- 2.02.18 YD = Yard

**Section 2.03 Definitions.**

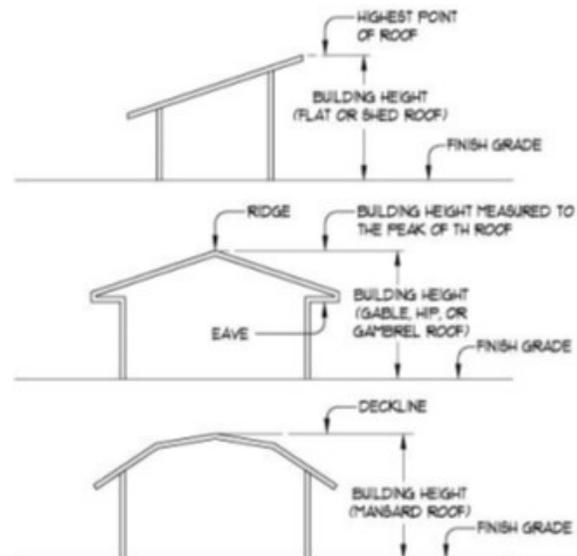
- 2.03.01 **ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.03.02 **ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley
- 2.03.03 **ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.
- 2.03.04 **ACCESSORY BUILDING** see “Building, Accessory”.
- 2.03.05 **ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 2.03.06 **ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
- 2.03.07 **ACREAGE** shall mean any tract or parcel of land which does not qualify as a farm or development.
- 2.03.08 **ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".
- 2.03.09 **ADULT ESTABLISHMENT** shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.
- 2.03.10 **ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.
- 2.03.11 **AESTHETIC ZONING** shall mean zoning to accomplish a standard of exterior architectural appeal and/or neighborhood harmony.
- 2.03.12 **AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
- 2.03.13 **AGRICULTURAL OPERATIONS** see “Farming”
- 2.03.14 **AGRICULTURE** shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.
- 2.03.15 **ALLEY** shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.

- 2.03.16 **ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.
- 2.03.17 **ALTERATION, STRUCTURAL** see “Structural Alteration”.
- 2.03.18 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.
- 2.03.19 **ANIMALS, DOMESTIC** see “Household Pet”
- 2.03.20 **ANIMAL UNIT** see “Livestock Feeding Operation”
- 2.03.21 **ANIMALS, FARM** shall mean livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.
- 2.03.22 **ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. Also see “Satellite Dish Antenna and Towers.”
- 2.03.23 **ANTIQUÉ SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of belonging to the past, at least 30 years old.
- 2.03.24 **APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping units. Also see “Dwelling Units.”
- 2.03.25 **APARTMENT HOUSE** see “Dwelling, Multiple Family.”
- 2.03.26 **APPEARANCE** shall mean the outward aspect visible to the public.
- 2.03.27 **APPROPRIATE** shall mean the sympathetic, or fitting, to the context of the site and the whole community.
- 2.03.28 **APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.
- 2.03.29 **ARCHITECTURAL STYLE** shall mean the characteristic form and detail, as of buildings of a particular historic period.
- 2.03.30 **ATTACHED PERMANENTLY** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.
- 2.03.31 **ATTRACTIVE** shall mean having qualities that arouse interest and pleasure in the observer.
- 2.03.32 **AUTOMATIC TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.
- 2.03.33 **AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.
- 2.03.34 **BALLROOM** shall mean a place or hall used for dancing. Ballrooms shall also be used for reunions, weddings and receptions.

- 2.03.35 **BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. Also see “Nightclubs.”
- 2.03.36 **BASEMENT** shall mean the portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling.
- 2.03.37 **BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
- 2.03.38 **BED and BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.
- 2.03.39 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door or doorway.
- 2.03.40 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.
- 2.03.41 **BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.
- 2.03.42 **BILLBOARD** see “Sign, Billboard.”
- 2.03.43 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, City-County boundaries, or adjoining property lines.
- 2.03.44 **BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.
- 2.03.45 **BOARD OF ADJUSTMENT** shall mean that board that has been created by the city and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.
- 2.03.46 **BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.
- 2.03.47 **BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.
- 2.03.48 **BREWERY** shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.
1. **BREWERY, CRAFT** shall mean a brew pub or a micro-brewery.
  2. **BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.
- 2.03.49 **BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 100 feet in height shall not be considered broadcast towers.

- 2.03.50 **BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. Also see “Screenings.”
- 2.03.51 **BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.
- 2.03.52 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Operable and licensed trailers, with wheels, shall not be considered as buildings.
- 2.03.53 **BUILDING ACCESSORY** shall mean any detached subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.
- 2.03.54 **BUILDING, AREA OF** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.
- 2.03.55 **BUILDING CODE** shall mean the various codes of the City that regulate construction and requires Building Permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the adopted building code of the City, and other codes adopted by the City that pertain to building construction.

2.03.56 **BUILDING, HEIGHT** shall mean the vertical distance above grade to the highest point of the roof, measured from the highest adjoining sidewalk or ground surface within a five foot horizontal distance at the exterior wall of the building. (Also, see Height of Building (**Ordinance 759, 2/18/2020**))



2.03.57 **BUILDING INSPECTOR** shall mean the Building Inspector(s) for the City of Yutan, Nebraska.

2.03.58 **BUILDING PRINCIPAL** shall mean a building within which the main or primary use of the lot or premises is located. Also, see “Principal Use.”

2.03.59 **BUILDING SETBACK LINE** shall mean the minimum of distance as prescribed by this regulation between any property line and the closed point of the building line or face of any building or structure related thereto.

2.03.60 **CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.

- 2.03.61 **CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.
- 2.03.62 **CARPORT** shall mean a permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile shelter and storage.
- 2.03.63 **CELLAR** shall mean a building space having more than one-half of its height below the average adjoining grade lines.
- 2.03.64 **CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium, crematoriums, and mausoleums.
- 2.03.65 **CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainage way.
- 2.03.66 **CHARITABLE** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.
- 2.03.67 **CHILD CARE** shall mean the provision of care as follows:
1. To four or more children under age 13 at any time families other than that of the provider;
  2. For on the average of less than 12 hours per day;
  3. For compensation, either indirect or direct;
  4. On a regular basis; and
  5. By a person other than their parents/guardians.
- 2.03.68 **CHILD CARE CENTER** shall mean a facility licensed to provide child care for 13 or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.
- 2.03.69 **CITY** shall mean the City of Yutan.
- 2.03.70 **CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. Also see "Sight Triangle."
- 2.03.71 **CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.
- 2.03.72 **CODE** shall mean the Municipal Code of the City of Yutan.
- 2.03.73 **COMMISSION** shall mean the City of Yutan Planning Commission.
- 2.03.74 **COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Clustered/Mixed Use Development or condominium development.
- 2.03.75 **COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
- 2.03.76 **COMMUNITY SANITARY SEWER SYSTEM** shall mean an approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.

- 2.03.77 **COMMUNITY WATER SUPPLY SYSTEM** shall mean a public water supply system which serves at least fifteen service connections used by year round residents or uses, or regularly serves 25 or more year round residents or uses.
- 2.03.78 **COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.
- 2.03.79 **COMPATIBLE USES** shall mean a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
- 2.03.80 **COMPREHENSIVE PLAN** shall mean the Comprehensive Development Plan of Yutan, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Section 19-901, R.R.S. 1943, as the same may, from time-to-time, be amended.
- 2.03.81 **CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relationship to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
- 2.03.82 **CONDITIONAL USE PERMIT** shall mean a permit issued by the City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.
- 2.03.83 **CONDOMINIUM** shall be as defined in the Nebraska State Statues Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale.
- 2.03.84 **CONFLICTING LAND USE** shall mean the use of property which transfers over neighboring property lines negative economic, or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.
- 2.03.85 **CONGREGATE HOUSING** shall mean a residential facility for four or more persons fifty-five 55 years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility.
- 2.03.86 **CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.
- 2.03.87 **CONSERVATION AREA** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.
- 2.03.88 **CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses or preserving the ability said land to be used for specific purposes such as on site wastewater treatment systems.
- 2.03.89 **CONVENIENCE STORE** shall mean a one-story, retail store containing less than 5,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is

- dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (Also, see self-service Station.)
- 2.03.90 **CONTIGUOUS** shall mean the same as "Abut" or "Abutting".
- 2.03.91 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two or more sides by such buildings.
1. **COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.
  2. **COURT, OUTER** shall mean a court enclosed on all but one side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.
- 2.03.92 **CUL-DE-SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.
- 2.03.93 **CURVE LOT** see "Lot, Curve".
- 2.03.94 **DENSITY** shall mean the number of dwelling units per acre of land allowable on a given tract or parcel of land.
- 2.03.95 **DEPARTMENT STORE** shall mean a business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed and exhibited and sold directly to the customer for whom the goods and services are furnished.
- 2.03.96 **DETENTION BASIN** shall mean a facility for the temporary storage of storm water runoff.
- 2.03.97 **DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.
- 2.03.98 **DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.
- 2.03.99 **DEVELOPMENT CONCEPT PLAN** See "Site Plan."
- 2.03.100 **DEVELOPMENT REVIEW** shall mean the review, by the city of subdivision plats, site plans, rezoning requests, or permit review.
- 2.03.101 **DISCOUNT CENTER** shall mean a single or group of stores, offering merchandise for sale at less than usual retail prices. Merchandise may be discounted due to either quantity price breaks or merchandise has been discontinued and discounted to another retailer.
- 2.03.102 **DOG KENNEL** See "Kennel, Commercial"; and "Kennel, Private."
- 2.03.103 **DOMESTIC ANIMALS** See "Household Pet."
- 2.03.104 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a higher density to a lower density residential district.
- 2.03.105 **DRAINAGEWAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided that in the event of doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.
- 2.03.106 **DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.

- 2.03.107 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.
- 2.03.108 **DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.
- 2.03.109 **DUPLEX** shall mean the same as "Dwelling, Two Family".
- 2.03.110 **DWELLING** shall mean any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
- 2.03.111 **DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.
- 2.03.112 **DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
- 2.03.113 **DWELLING, MODULAR** (Is considered a conventional type single-family dwelling). Shall mean any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943, in addition to any amendments thereto, those that do not meet the above criteria shall be considered a mobile home.
- 2.03.114 **DWELLING, MULTIPLE** shall mean a building or buildings designed and used for occupancy by three or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.03.115 **DWELLING SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.
- 2.03.116 **DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meet all the following standards:
1. The home shall have no less than 900 square feet of floor area, above grade, for single story construction;
  2. The home shall have no less than an 18 foot exterior width;
  3. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;
  4. The exterior material is of a color, material and scale comparable with those existing in residential site-built, single family construction;
  5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or is a standing seam residential grade steel material, or rock;
  6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
  7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

8. Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.
- 2.03.117 **DWELLING, SINGLE-FAMILY (ATTACHED)** shall mean a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an un-pierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.
- 2.03.118 **DWELLING, TWO FAMILY** shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.03.119 **DWELLING UNIT** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.
- 2.03.120 **EASEMENT** shall mean an authorization by a property owner for the use by another, and for a specified purpose, of a designated part of his or her property.
- 2.03.121 **EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.
- 2.03.122 **EFFECTIVE DATE** shall mean the date that this Ordinance shall have been adopted, amended, or the date land areas became subject to the regulations contained in this Ordinance as a result of such adoption or amendment.
- 2.03.123 **ENCROACHMENT** shall mean an advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.
- 2.03.124 **ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
- 2.03.125 **ERECTED** shall mean constructed upon or moved onto a site.
- 2.03.126 **EXISTING AND LAWFUL** shall mean the use of a building, structure, or land was in actual existence, operation, and use, as compared to the use being proposed, contemplated, applied for, or in the process or being constructed or remodeled. In addition, the use must have been permitted, authorized, or allowed by law or any other applicable regulation prior to the enactment of a zoning regulation when first adopted or permitted, authorized or allowed by the previous zoning regulation prior to the adoption of an amendment to that zoning regulation.
- 2.03.127 **EXTERIOR BUILDING COMPONENT** shall mean an essential and visible part of the exterior of a building.
- 2.03.128 **EXTERNAL DESIGN FEATURE** shall mean the general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the types of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.

- 2.03.129 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which the City has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.
- 2.03.130 **FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.
- 2.03.131 **FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.
- 2.03.132 **FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.
- 2.03.133 **FAMILY CHILD CARE HOME I** shall mean a child care operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.
- 2.03.134 **FAMILY CHILD CARE HOME II** shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.
- 2.03.135 **FARM** shall mean an area containing at least 20 acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed; provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.
- 2.03.136 **FARMING** shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of swine or other animals.
- 2.03.137 **FARMSTEAD**, In contrast to a farmstead dwelling, a tract of land of not less than 1 acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed at the time of the adoption of this resolution and was used for single-family resident purposes.
- 2.03.138 **FENCE** shall mean a structure serving as an enclosure, barrier or boundary.
1. **FENCE, OPEN** shall mean a fence, including gates, which has, for each one foot wide segment extending over the entire length and height of fence, 50 percent or more of the surface area in open spaces which affords direct views through the fence.
  2. **FENCE, SOLID** shall mean any fence that does not qualify as an open fence.
- 2.03.139 **FIREWORKS** shall mean any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, firecrackers, torpedoes, sky rockets, Roman candles, Daygo bombs, sparklers, or other fireworks containing any explosive or flammable compound, or any tablet or other device containing any explosive substance. Nothing in this regulation shall be construed as applying to toy paper caps containing not more than 0.25 of a grain (16.20 milligrams) of explosive composition per cap.
- 2.03.140 **FIREWORKS STAND** shall mean any portable building and/or structure used for the retail sale of fireworks, usually on a temporary basis.
- 2.03.141 **FIREWORKS STORAGE** shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.

- 2.03.142 **FLOOD** see Section 5.18.14 of this Ordinance.
- 2.03.143 **FLOOD PLAIN** see Section 5.18.14 of this Ordinance.
- 2.03.144 **FLOODWAY** see Section 5.18.14 of this Ordinance.
- 2.03.145 **FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.
- 2.03.146 **FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
1. **FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.
  2. **FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.
- 2.03.147 **FRONTAGE** shall mean that portion of a parcel of property which abuts a dedicated public street or highway.
- 2.03.148 **GARAGE, PRIVATE** shall mean a detached accessory building or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.
- 2.03.149 **GARAGE, PUBLIC** shall mean any garage other than a private garage.
- 2.03.150 **GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work as a commercial business. Also see "Service Station".
- 2.03.151 **GARBAGE** shall mean any waste food material of an animal or vegetable nature.
- 2.03.152 **GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- 2.03.153 **GRAPHIC ELEMENT** shall mean a letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.
- 2.03.154 **GREENWAY** shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set aside for a walkway, bicycle trail, bridal path, or other similar access-way.
- 2.03.155 **GROUND COVER** shall mean plant material used in landscaping which remain less than 12 inches in height at maturity. Also see "Landscaping".
- 2.03.156 **GROUND WATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.
- 2.03.157 **GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting.
- 2.03.158 **GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

- 2.03.159 **GUEST ROOM** shall mean a room which is designed to be occupied by one or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.
- 2.03.160 **HALF-STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three feet above the floor of such story.
- 2.03.161 **HARD SURFACED** shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed and paved with either asphalt or concrete.
- 2.03.162 **HAZARDOUS WASTE** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.
- 2.03.163 **HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.
- 2.03.164 **HEALTH RECREATION FACILITY** shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.
- 2.03.165 **HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.
- 2.03.166 **HEIGHT OF BUILDING** shall mean the vertical distance above grade to the highest point of the coping of a flat roof, of the peak of a gable roof, or of any other type of pitched, hipped, or mansard roof. The grade may mean the highest adjoining sidewalk or ground surface within a 5 foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.
- 2.03.167 **HOME FOR THE AGED** see “Long-term Care Facility”.
- 2.03.168 **HOME OCCUPATION** shall mean an “in-home” or “home based” or entrepreneurial business operating from a residential dwelling within Yutan. Home occupations are considered accessory uses to properties in all zoning districts.
- 2.03.169 **HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
- 2.03.170 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, motor hotel.
- 2.03.171 **HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.
- 2.03.172 **IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as rock, gravel, or clay and conventionally surfaced streets, roofs, sidewalks, parking lots, and driveways.
- 2.03.173 **INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.
- 2.03.174 **INDUSTRY** shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

- 2.03.175 **INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.
- 2.03.176 **INFILL SITE** shall mean any vacant lot, parcel, or tract of land within developed areas of the city, where at least 80 percent of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.
- 2.03.177 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle which is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
- 2.03.178 **INSTITUTIONAL BUILDING** shall mean a public and public/private group use of a nonprofit nature, typically engaged in public service (i.e. houses of worship, nonprofit cultural centers, and charitable organizations).
- 2.03.179 **INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.
- 2.03.180 **INTENT AND PURPOSE** shall mean that the Commission and Council by the adoption of this Regulation have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.
- 2.03.181 **JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
- 2.03.182 **JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment that are a result of the dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".
- 2.03.183 **KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which four or more dogs or cats at least four months of age, are boarded, bred, or trained for a fee.
- 2.03.184 **KENNEL, COMMERCIAL** shall mean an establishment where four or more dogs or cats at least four months of age are groomed, bred, boarded, trained, or sold as a business.
- 2.03.185 **LAGOON** shall mean a wastewater treatment facility which is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.
- 2.03.186 **LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
- 2.03.187 **LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
- 2.03.188 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.

- 2.03.189 **LAUNDRY, SELF SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.
- 2.03.190 **LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. Also see “Congregate Housing and Housing for the Elderly”.
- 2.03.191 **LIGHT CUT-OFF ANGLE** shall mean an angle from vertical, extending downward from luminaries, which defines the maximum range of incident illumination outward at the ground plane.
- 2.03.192 **LIMITS OF GRADING** shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.
- 2.03.193 **LIVESTOCK** See “Animals, Farm”.
- 2.03.194 **LOADING SPACE** shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.
- 2.03.195 **LOGIC OF DESIGN** shall mean accepted principles and criteria of validity in the solution of the problem of design.
- 2.03.196 **LONG-TERM CARE FACILITY** shall mean a facility as defined in Title 15, Chapter 3 Nebraska Department of Health and Human Services and NRS Section 71-2017.01. These facilities include:
1. Nursing facilities
  2. Boarding home
  3. Adult Care Home
  4. Assisted Living Facility
  5. Center for the Developmentally Disabled
  6. Group Residence
  7. Swing Bed
  8. Adult Day Care
- 2.03.197 **LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Register of Deeds and abutting at least one public street or right-of-way, or one private road.
- 2.03.198 **LOT AREA** shall mean the total area, on a horizontal plane, within the lot lines of a lot.
- 2.03.199 **LOT, CORNER** shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot". The front of such lot shall be the shortest of the two sides fronting on streets. The other yard shall be referred to the street side yard.
- 2.03.200 **LOT COVERAGE** (Ordinance 794) shall mean the portion of a lot or building site which is occupied by any building or structure. As well as any non-pervious materials (compacted rock, concrete).  
Green space will include any pervious surfaces such as landscaped areas, grass, pavers or any material that allows for drainage.
- 2.03.201 **LOT, CURVE** shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of 300 feet or less.



2.03.215 **MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

2.03.216 **MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Yutan City Council.

2.03.217 **MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the City of Yutan and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, Subdivision, and Building Inspection activities.

2.03.218 **MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

2.03.219 **MINI-STORAGE OR MINI-WAREHOUSE** See “Self-Service Storage Facility”.

2.03.220 **MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, staging, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities.

2.03.221 **MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

2.03.222 **MOBILE HOME** See “Dwelling, Mobile Home”.

2.03.223 **MOBILE HOME PARK** See “Manufactured Home Park”.

2.03.224 **MOBILE HOME SUBDIVISION** See “Manufactured Home Subdivision”.

2.03.225 **MONOTONY** shall mean repetitive sameness, lacking variety and variation, and/or reiteration.

2.03.226 **MOTOR VEHICLE** shall mean every self-propelled land vehicle not operated upon rails, except mopeds and self-propelled invalid chairs.

2.03.227 **NEBRASKA REVISED REISSUED STATUTES**, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

2.03.228 **NONCOMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.

2.03.229 **NON-CONFORMING BUILDING** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

2.03.230 **NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.

2.03.231 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

2.03.232 **NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

2.03.233 **NURSING HOME** see “Congregate Care Facility”.

2.03.234 **NURSERY SCHOOL** see “Preschool”.

2.03.235 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.

2.03.236 **OFFICIAL MAP** See “Map, Official Zoning District”.

2.03.237 **OFF-STREET PARKING AREA or VEHICULAR USE** shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

2.03.238 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

2.03.239 **OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

2.03.240 **OUTLOT** shall mean a lot remnant or parcel of land left over after platting, which is intended as open space or other designated use.

2.03.241 **OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".

2.03.242 **OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.

2.03.243 **OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.

2.03.244 **PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.

2.03.245 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

2.03.246 **PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.

2.03.247 **PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

2.03.248 **PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.

2.03.249 **PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.

- 2.03.250 **PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with these regulations as well as with approved plans and specifications of a development.
- 2.03.251 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
- 2.03.252 **PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.
- 2.03.253 **PERMITTED USE** shall mean any land use allowed without condition within a zoning district.
- 2.03.254 **PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include Yutan, Nebraska.
- 2.03.255 **PLANNED UNIT DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.
- 2.03.256 **PLANNING COMMISSION** shall mean the City of Yutan Planning Commission.
- 2.03.257 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.
- 2.03.258 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.
- 2.03.259 **POLICY** shall mean a statement or document of the City, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.
- 2.03.260 **PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.
- 2.03.261 **PRESCHOOL** shall mean an early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.
- 2.03.262 **PRIVATE WELL** shall mean a well that provides water supply to less than 15 service connections and regularly serves less than 25 individuals.
- 2.03.263 **PROHIBITED USE** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
- 2.03.264 **PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall not be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.
- 2.03.265 **PROPORTION** shall mean a balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.
- 2.03.266 **PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.

- 2.03.267 **PUBLIC FACILITY** shall mean any building, location, or structure, owned by a public entity such as a library, fire station, school, park, and other similar facilities and uses.
- 2.03.268 **PUBLIC USE** shall mean a specified activity or area that either through actual public ownership or through dedication of easements allows the general public access and use.
- 2.03.269 **PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.
- 2.03.270 **PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.
- 2.03.271 **RAILROAD** shall mean the land use including the right-of-way (R. O. W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.
- 2.03.272 **RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.
- 2.03.273 **RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than 40 feet in overall length, eight feet in width, or 12 feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.
- 2.03.274 **REINSPECTION FEE** shall mean any fee charged for an inspection other than the initial inspection when required work has not or was not completed and results in additional trips to the site by the inspector or agent of the City.
- 2.03.275 **RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.
- 2.03.276 **RESTAURANT** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.
- 2.03.277 **RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.
- 2.03.278 **RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of storm water runoff.
- 2.03.279 **REVERSE SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
- 2.03.280 **REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.

- 2.03.281 **REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
- 2.03.282 **RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.
- 2.03.283 **ROAD** shall mean the same as "Street".
- 2.03.284 **ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. Also see "Right-of-Way" and "Street".
- 2.03.285 **ROAD, PUBLIC** shall mean a public right-of-way reserved or dedicated for street or road traffic. Also see "Right-of-Way" and "Street".
- 2.03.286 **ROOM** shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.
- 2.03.287 **SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.
- 2.03.288 **SCALE** shall mean a proportional relationship of the size of parts to one another and to the human figure.
- 2.03.289 **SCHOOL, DAY** shall mean a preschool or nursery school for children.
- 2.03.290 **SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.
- 2.03.291 **SCREENING** shall mean a structure of planting that conceals from view from public ways the area behind such structure or planting.
- 2.03.292 **SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.
- 2.03.293 **SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.
- 2.03.294 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
- 2.03.295 **SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.
- 2.03.296 **SERVICE STATIONS** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.
- 2.03.297 **SETBACK LINE, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.

2.03.298 **SETBACK LINE, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed wherefrom by the perpendicular distance prescribed for the yard in the district.

2.03.299 **SETBACK LINE, STREET SIDE YARD** shall mean the line which defines the depth of the designated street side yard on a corner lot. Said setback line shall be parallel with the street/road right-of-way line. Setbacks shall be measured from the property line, easement, or road right-of-way, whichever distance is more stringent.

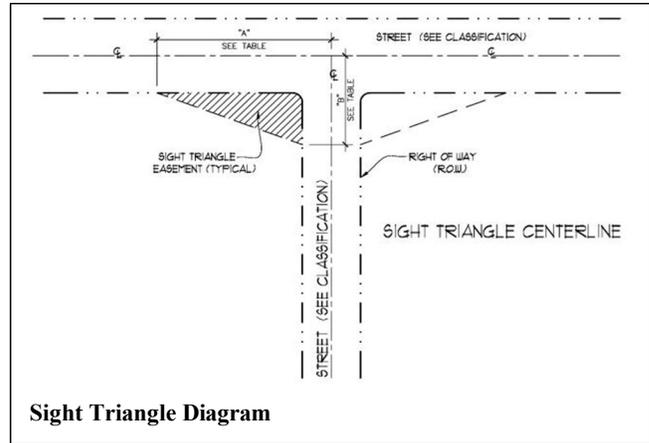
2.03.300 **SHOPPING CENTER** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.

2.03.301 **SHOPPING CENTER, COMMERCIAL STRIP** shall mean a commercial development, usually one store deep, that fronts on a major street for a distance of one city block or more. Includes individual buildings on their own lots, with or without on-site parking, and small linear shopping centers with shallow on-site parking in front of the stores.

2.03.302 **SHRUB** shall mean a multi-stemmed woody plant other than a tree.

2.03.303 **SIDEWALK CAFE** shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof.

2.03.304 **SIGHT TRIANGLE** is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, 60 feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the 60-foot distance shall be increased to 90 feet for each arterial leg of the intersection.



Sight Triangle Diagram

2.03.305 **SIGN, ADVERTISING** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.

2.03.306 **SIGN, ANIMATED** shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.

2.03.307 **SIGN, ANNOUNCEMENT** shall mean a small announcement or professional signs, not over 6 square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.

2.03.308 **SIGN, ARCHITECTURAL CANOPY** shall mean an enclosed, illuminated (backlit awning) or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.

2.03.309 **SIGN AREA** of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose



Sign, Banner

the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminate

- 2.03.310 **SIGN, AUDIBLE** shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and / or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and / or sounds to attract attention.
- 2.03.311 **SIGN, AWNING OR CANOPY** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
- 2.03.312 **SIGN, BANNER** shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners. Banner signs shall not represent a commercial message.
- 2.03.313 **SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

2.03.314 **SIGN, BUILDING** shall mean any sign supported by, painted on or otherwise attached to any building or structure.

2.03.315 **SIGN, BUILDING MARKER** shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

2.03.316 **SIGN, CENTER IDENTIFICATION** shall mean any sign erected to provide direction to a development including multiple uses and / or structures within the development. Center Identification signs shall include the name of said development and may include, when permitted, the names of major tenants of the development. Center Identification Signs shall typically be similar to Ground (Monument) signs.



**Sign, Monument  
Sign, Electronic Message  
Sign, Flashing**

2.03.317 **SIGN, CHANGEABLE COPY** shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

2.03.318 **SIGN, CLOSED** shall mean a sign in which more than 50 percent of the entire area is solid or tightly closed or covered.

2.03.319 **SIGN, COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.



**Sign, Ground Monument  
Sign, Changeable Copy**

- 2.03.320 **SIGN, DESTINATION** shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.
- 2.03.321 **SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.
- 2.03.322 **SIGN, FLASHING** shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.
- 2.03.323 **SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.
- 2.03.324 **SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source. 2.03.325

**SIGN, INCIDENTAL** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental. Incidental signs may be either attached or painted on the wall.

2.03.326 **SIGN, MARQUEE** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

2.03.327 **SIGN, MONUMENT** shall mean a sign mounted directly to the ground with a maximum height not to exceed 10 feet.

2.03.328 **SIGN, NAMEPLATE** shall mean a sign not exceeding 2 square feet for each dwelling.

2.03.329 **SIGN, NON-CONFORMING** shall mean any sign that does not conform to the requirements of this ordinance

2.03.330 **SIGN, OBSOLETE** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six months after the termination of the existence of such business or the termination of sale of the product advertised.



**Sign, Billboard  
Sign, Off-Premises**

2.03.331 **SIGN, OFF-PREMISES** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.

2.03.332 **SIGN, ON-PREMISE** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.

2.03.333 **SIGN, OPEN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

2.03.334 **SIGN, PENNANT** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended



**Sign, Projecting**

from a rope, wire, or string, usually in series, designed to move in the wind.

2.03.335 **SIGN, POLE** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

2.03.336 **SIGN, PORTABLE** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations (deliveries and transportation of personnel) of the business. This definition also includes any and all sandwich boards supported by human beings or animals.

2.03.337 **SIGN, PROJECTING** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.

2.03.338 **SIGN, REAL ESTATE** shall mean a temporary sign that identifies property or properties that are for sale or lease.

2.03.339 **SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.

2.03.340 **SIGN, ROOF (INTEGRAL)** shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design,

such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches



Sign, Subdivision

2.03.341 **SIGN, SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

2.03.342 **SIGN, SUBDIVISION** shall mean a sign erected on a subdivision which identifies the platted subdivision where the sign is located.

2.03.343 **SIGN, SURFACE** shall mean the entire area of a sign.

2.03.344 **SIGN, SUSPENDED** shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

2.03.345 **SIGN, TEMPORARY** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.

2.03.346 **SIGN, VIDEO** shall mean any on-premises or off-premises sign that convey either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen.

2.03.347 **SIGN, WALL** shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.



Sign, Wall

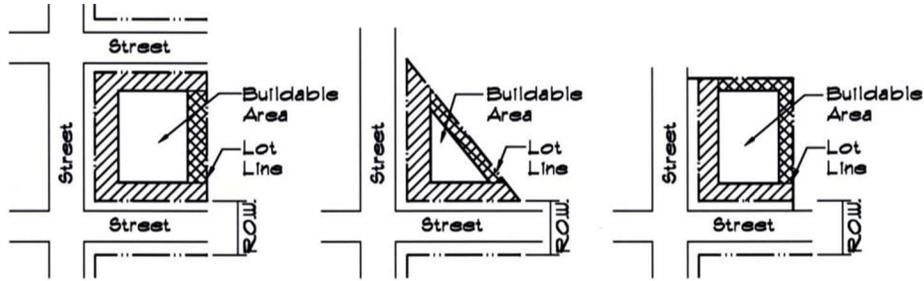
- 2.03.348 **SIGN, WINDOW** shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes of glass and is visible from the exterior of the window.
- 2.03.349 **SIGN BASE** shall mean any decorative, functional element extending upward from grade to the start of the sign.
- 2.03.350 **SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities
- 2.03.351 **SITE BREAK** shall mean a structural or landscape device to interrupt long vistas and create visual interest in a site development.
- 2.03.352 **SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.
- 2.03.353 **SITE, SEPTIC** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.
- 2.03.354 **SKATEBOARD** shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lies upon the device while it is in motion.
- 2.03.355 **SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
- 2.03.356 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.
- 2.03.357 **SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.
- 2.03.358 **STANDARD SYSTEM** shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.
- 2.03.359 **STATE** shall mean the State of Nebraska.
- 2.03.360 **STORAGE** shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.
- 2.03.361 **STORM DRAIN** shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.
- 2.03.362 **STORM WATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof. Said detention shall be designed by a licensed professional engineer and approved by the City.
- 2.03.363 **STORM WATER MANAGEMENT** shall mean the collecting, conveyance, channeling, holding retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.
- 2.03.364 **STORM WATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the City to retain water to control the flow of storm water.

- 2.03.365 **STORM WATER RUNOFF** shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.
- 2.03.366 **STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.
- 2.03.367 **STORY, ONE-HALF** shall mean the same as "Half-Story".
- 2.03.368 **STREET** shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Regulation.
- 2.03.369 **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a City, City, or county with controlled access to abutting property.
- 2.03.370 **STREET, COLLECTOR** shall mean a street or highway, which is intended to carry traffic from minor Street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.
- 2.03.371 **STREET, CURVILINEAR** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.
- 2.03.372 **STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
- 2.03.373 **STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two outlets connected to the same street.
- 2.03.374 **STREETS, MAJOR** shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.
- 2.03.375 **STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place."
- 2.03.376 **STREET, SIDE** shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.
- 2.03.377 **STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.
- 2.03.378 **STREET FRONTAGE** shall mean the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.
- 2.03.379 **STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.
- 2.03.380 **STREET HARDWARE** shall mean man-made objects other than buildings that are part of the streetscape. Examples are: lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.
- 2.03.381 **STREET LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

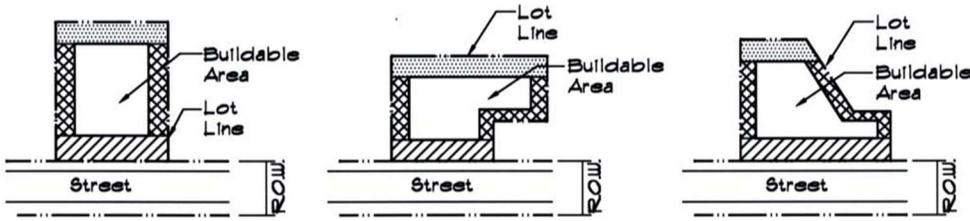
- 2.03.382 **STREETSCAPE** shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.
- 2.03.383 **STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.
- 2.03.384 **STRUCTURE, ADVERTISING** shall mean the same as "Advertising Structure".
- 2.03.385 **STRUCTURAL ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.
- 2.03.386 **SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.
- 2.03.387 **SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.
- 2.03.388 **TANNING STUDIO** shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.
- 2.03.389 **TAVERN** See "Bars".
- 2.03.390 **TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.
- 2.03.391 **TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. Also see "Antenna".
- 2.03.392 **TOWNHOUSE** shall mean a one-family dwelling unit, with a private entrance in a group of three or more units, which part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.
- 2.03.393 **TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.
- 2.03.394 **TRUCK REPAIR** shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one ton and buses but excluding pickups and other vehicles designed for the transport of under eight passengers.
- 2.03.395 **UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.

- 2.03.396 **USE** shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.
- 2.03.397 **USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.
- 2.03.398 **USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
- 2.03.399 **USE, PERMITTED** shall mean any land use allowed without condition within a zoning district.
- 2.03.400 **USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. Also see "Building, Principal".
- 2.03.401 **USE, PROHIBITED** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
- 2.03.402 **USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".
- 2.03.403 **UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.
- 2.03.404 **UTILITY EASEMENT** shall mean the same as "Easement".
- 2.03.405 **UTILITY HARDWARE** shall mean devices such as poles, cross arms, transformers and vaults, gas pressure regulating assemblies, hydrants, and boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.
- 2.03.406 **UTILITIES, OVERHEAD OR UNDERGROUND "LOCAL DISTRIBUTION" SYSTEM OF** shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.
- 2.03.407 **UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLYLINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE"**, or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.
- 2.03.408 **UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil, wastewater and communications into a building or development.
- 2.03.409 **VARIANCE** shall mean a relief from or variation of the provisions of this Ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.
- 2.03.410 **VEGETATION** shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.
- 2.03.411 **VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.

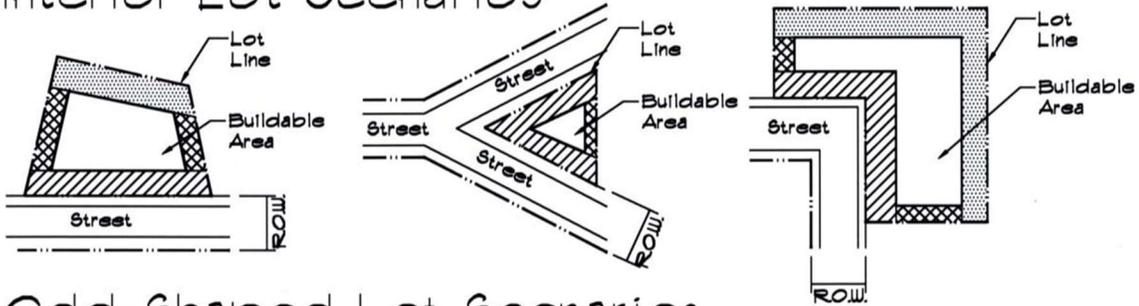
- 2.03.412 **VEHICLE, MOTOR** See “Motor Vehicle”.
- 2.03.413 **WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.
- 2.03.414 **WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
- 2.03.415 **WASTEWATER LAGOON** See “Lagoons”.
- 2.03.416 **WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.
- 2.03.417 **WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
- 2.03.415 **YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.
- 2.03.416 **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot. The front yard shall always be on the narrow side of the lot.
- 2.03.417 **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
- 2.03.418 **YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.
- 2.03.419 **ZONE LOT** shall mean a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.
- 2.03.420 **ZONING ADMINISTRATIVE OFFICER** shall mean the person or persons authorized and empowered by the city to administer and enforce the requirements of this Ordinance.
- 2.03.421 **ZONING DISTRICT** shall mean the same as "District".
- 2.03.422 **ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the City.



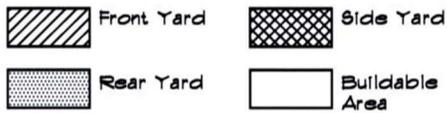
Corner Lot Scenarios



Interior Lot Scenarios



Odd-Shaped Lot Scenarios



Example of possible Lot Configurations and Yard Requirements

**ARTICLE 3: DISTRICTS AND OFFICIAL MAP**

**Section 3.01 Districts**

In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the City and the area within one mile of the corporate boundaries, the City is hereby divided into districts.

**Section 3.02 Provision for Official Zoning Map**

3.02.01 The City is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. \_\_\_ of the City of Yutan, Nebraska", together with the date of the adoption of this Ordinance. If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.

3.02.02 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted Ordinance No. \_\_\_ of the City of Yutan Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

**ARTICLE 4: GENERAL PROVISIONS**

**Section 4.01 Planning Commission Recommendations**

Pursuant to Neb. Rev. Stat. § 19-901 (R.R.S.1996), it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendation to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the City.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the City Council shall not hold its public hearings or take action until it has received the final report of the Commission.

**Section 4.02 District Regulations, Restrictions, Boundary Creation**

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one time 10 days prior to such hearing.

**Section 4.03 Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of the City of Yutan, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one mile, as established on the Official Zoning Map, as may be amended from time to time.

**Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

**Section 4.05 Zoning Affects Every Building and Use**

No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

**Section 4.06 Lot**

4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.

4.06.02 No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street.

4.06.03 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the City Council.

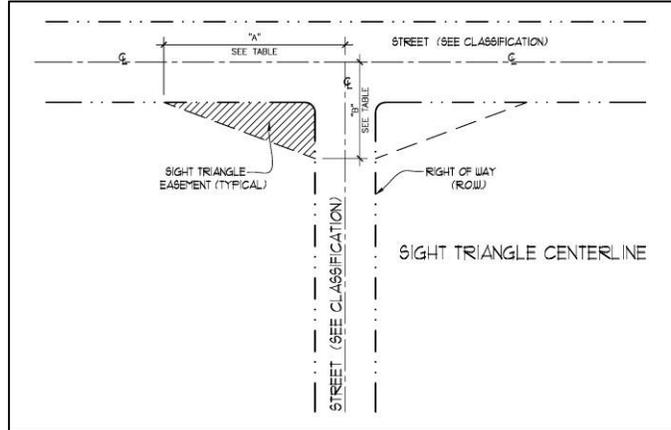
1. Institutional buildings
2. Public or semi-public buildings
3. Multiple-family dwellings
4. Commercial or industrial buildings
5. Home for the aged
6. Agricultural buildings

**Section 4.07 Reductions in Lot Area Prohibited**

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**Section 4.08 Obstructions to Vision at Street Intersections Prohibited**

A corner lot, within the area formed by the center line of streets at a distance of 60 feet from their intersections, there shall be no obstruction to vision between a height of two and one-half feet and a height of 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the distance of 60 feet shall be increased to 90 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.



**Section 4.09 Yard Requirements**

4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.

4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.

4.09.03 The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) More than 30 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) A minority of such structures have observed or conformed to an average setback line.

4.09.04 The required side yard shall be maintained on each side of a dwelling, but may be reduced to 10 percent of the lot width on lots of less than 60 feet in width, provided, however, no side yard shall be less than five feet.

4.09.05 The required rear yard may be reduced to 20 percent of the depth of the lot where the required rear setback is greater than 20 percent of the depth of the lot.

4.09.06 Any side or rear yard in an industrial or commercial district which is adjacent to any existing residential use or district shall be no less than 25 feet and shall contain landscaping, planting, or fencing suitable to provide effective screening. Said screening shall be at least six feet but not more than eight feet high, unless the adjacent residential district and industrial or commercial district are separated by a street right-of-way. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said screening in good condition.

4.09.07 No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space requirements for another building or structure.

**Section 4.10 Permitted Obstructions in Required Yards**

The following shall not be considered to be obstructions when located in the required yards:

4.10.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act and are necessary for access to a permitted building or for access to a lot from a street or alley; an open, uncovered porch or paved terrace, not over six inches in height, projecting up to 10 feet, provided such projection does not extend to any lot line; chimneys projecting 24 inches or less into the yard; recreational equipment and clothes lines; approved freestanding signs; arbors and trellises; flag poles; the ordinary projections of sills, eaves, belt courses, cornices, ornamental features, and

window unit air conditioners projecting not more than 18 inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.

- 4.10.02 *Front Yards:* Bay windows projecting three feet or less into the yard are permitted.
- 4.10.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.
- 4.10.04 *Double Frontage Lots:* The required front yard shall be provided on each street.
- 4.10.05 *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

**Section 4.11 Accessory Building and Uses**

- 4.11.01 No accessory building or structure shall be constructed upon a lot for more than six months prior to beginning construction of the principal building. No accessory building shall be used for more than six months unless the main building on the lot is also being used or unless the main building is under construction. However, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.11.02 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure when permitted.
- 4.11.03 No accessory building or structure shall be erected in or encroach upon the required street side yard on a corner lot or the front yard of a double frontage lot.
- 4.11.04 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet, as provided in the local building code (**Ordinance 761, 4/21/20**).

- 4.11.05 Detached garages and outbuildings in the R-1 Low Density Residential and R-2 Medium/High

Density Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction.

- 1. Be constructed of materials that are in good repair,
- 2. The sidewalls of said building shall not exceed 12 feet in height,
- 3. Garages shall have an overhang of at least six inches,
- 4. Garages shall have a maximum width of 36 feet,
- 5. Garages shall be constructed and finished in materials customary to residential construction. (**Ordinance 760, 2/18/20; Ordinance 763, 6/16/20**)

- 4.11.06 No accessory building shall project beyond a required yard line along any street.
- 4.11.07 All accessory buildings, regardless of zoning district, shall be subordinate to the principal building with regard to size and building footprint except in the TA and RS Districts (**Ordinance 761, 4/21/20**).

**Section 4.12 Permitted Modifications of Height Regulations**

- 4.12.01 The height limitations of this Ordinance shall not apply to the following, provided that the appropriate yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the given zoning district

Church Steeples	Public Monuments	Flag Poles
Chimneys	Ornamental Towers and Spires	Church Spires
Silos	Cooling Towers	Smoke Stacks
Elevator Bulkheads	Necessary Mechanical Devices	Fire Towers
Water Towers and Standpipes	Air-Pollution Prevention Devices	

4.12.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 60 feet, provided, each required yard line shall be increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

**Section 4.13 Occupancy of Basements and Cellars**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been completed.

**Section 4.14 Drainage**

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent that such changes will not be a detriment to the neighboring lands.

**Section 4.15 Non-Conforming, General Intent**

It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

**Section 4.16 Nonconforming Lots of Record**

In any district where buildings and structures are permitted, notwithstanding limitations imposed by other provision of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous Ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

**Section 4.17 Nonconforming Structures**

4.17.01 *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

4.17.02 *Enlargement, Repair, Alterations:* Any such structure described in Section 4.17.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.

4.17.03 *Damage or Destruction:* In the event that any structure described in Section 4.17.01 is damaged or destroyed, by any means, to the extent of more than 60 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.16, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 60 percent of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.

4.17.04 *Moving*: No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**Section 4.18 Nonconforming Uses**

4.18.01 *Nonconforming Uses of Land*: Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

4.18.02 *Nonconforming Uses of Structures*: If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**Section 4.19 Repairs and Maintenance**

4.19.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic area of the building as it existed at the time of passage of amendment of this Ordinance shall not be increased.

4.19.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**Section 4.20 Uses under Conditional Use Permit not Nonconforming Uses**

Any use for which a Conditional Use Permit is issued as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

**Section 4.21 Recreational Vehicles, Trailers, or Equipment**

All vehicles, trailers, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere within this Ordinance

**Section 4.22 Fees**

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted by the City Council by separate Ordinance.

**Section 4.23 Prohibited Uses**

All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this Ordinance is amended to include a given use.

**Section 4.24 Rear Yard Setbacks**

In any Residential District, the Rear Yard Setback shall be the lesser of the minimum amount noted or 20% of the total lot depth.

**ARTICLE 5: ZONING DISTRICTS**

5.01	Districts; Uses	
5.02	Districts; Boundaries	
5.03	District Boundaries; Interpretation	
5.04	Districts; Classification of Districts upon Annexation and Conformance with Land Use Plan	
5.05	District (TA);	Transitional Agricultural
5.06	District (RS);	Residential Subdivision
5.07	District (R-1);	Low Density Residential
5.08	District (R-2);	Medium/High Density Residential
5.10	District (B-1);	General Business District
5.11	District (B-2);	Central Commercial District
5.12	District (B-3);	Highway Commercial District
5.13	District (I-1);	Light Industrial District
5.14	District (I-2);	Heavy Industrial District
5.15	District (CMD);	Clustered/Mixed Use Development
5.16	District (HO);	Highway Corridor Protection (overlay)
5.17	District (FF/FW);	Floodway Fringe and Floodway (overlay) (Use County Version?)

**Section 5.01 Districts; Use**

For the purpose of this Chapter, the Municipality is hereby divided into 12 districts, designated as follows:

(TA)	Transitional Agricultural
(RS)	Residential Subdivision
(R-1)	Single-Family Residential
(R-2)	Medium/High Density Residential
(B-1)	General Business District
(B-2)	Central Commercial District
(B-3)	Highway Commercial District
(I-1)	Light Industrial District
(I-2)	Heavy Industrial District
(CMD)	Clustered/Mixed Use Development
(HO)	Highway Corridor Protection (overlay)
(FF/FW)	Floodway Fringe and Floodway (overlay) (Use County Version?)

**Section 5.02 Districts; Boundaries**

The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of Yutan, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Chapter. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map.

**Section 5.03 Rules for Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 5.03.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 5.03.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 5.03.03 Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- 5.03.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

- 5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- 5.03.06 Boundaries indicated as parallel to or extensions of features indicated in subsections 5.03.01 to 5.03.05 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- 5.03.07 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 5.03.01 to 5.03.06 above, the Board of Zoning Adjustment shall interpret the district boundaries;
- 5.03.08 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

**Section 5.04 District Classification upon Annexation**

Areas annexed into the corporate limits of Yutan shall be zoned to conform to the Yutan Future Land Use Plan. Rezoning shall be required to follow proper procedures including Public Hearings as per Neb. Rev. Stat. §19- 904.

**Section 5.05 TA Transitional Agriculture District**

5.05.01 *Intent:* The Transitional Agriculture District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry. Because the areas are not in the identified growth areas for the community, the district is designed to limit urban sprawl.

5.05.02 *Permitted Uses:*

The following principal uses are permitted in the TA District.

1. Churches.
2. Farm dwellings for the owners and their families, tenants, and employees.
3. Farming, pasturing, orchards, greenhouses and nurseries, including the sale and distribution of agricultural products, excluding the sale and distribution of chemicals.
4. Farms for breeding, raising, and selling wild game, fish and livestock, provided that no livestock feedlot or yard for more than 20 animals shall be established, also provided that any building for the enclosure or shelter of animals shall be setback at least 50 feet from all street and lot lines.
5. Landscape and Horticultural Services (**Ordinance 753, 11/4/19**)
6. Private clubs or organizations not operated for profit.
7. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
8. Family Child Care Home II
9. Public and private schools, colleges, and universities.
10. Public Uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems, community centers, auditoriums, libraries or museums.
11. Roadside stands and truck gardens offering for sale agriculture products produced on the premises.
12. Single family dwelling.

5.05.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the TA District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Buildings and facilities for the raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
2. Cemeteries or mausoleums provided all structures are located at least 100 feet from all property lines.
3. Commercial recreation areas and facilities, such as swimming pools, fishing lakes, and gunclubs.
4. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes.
5. Private or Commercial kennels or facilities for the raising, breeding, or boarding of dogs and other small animals provided that such facility is located a minimum of 100 feet from the property line and a minimum of 300 feet away from the nearest residential zoning district, and is located on a minimum of five acres.
6. Private stables and facilities for housing animals and fowl for non-commercial purposes, on at least five acres, provided that all buildings shall be no closer than 300 feet to any residential district.
7. Public and private riding academies on at least five acres provided that no stable, building or structure in which horses or other animals are housed may be closer than 300 feet to any residential district.
8. Public overhead and underground local distribution utilities.
9. Resource extraction operations, pursuant to Section 7.14.
10. Veterinarians' offices and hospitals.
11. Wastewater treatment facilities.
12. Wind energy systems, pursuant to Section 7.13.

5.05.04 *Temporary Uses:* The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Temporary greenhouses.
2. Fireworks stands provided the criteria are met as established by the City through separate Ordinances.

3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
4. Temporary structure for festivals or commercial events.

*5.05.05 Permitted Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Fences pursuant to Section 7.11.
3. Home occupation, pursuant to Section 7.09.
4. Parking pursuant to Sections 7.01 through 7.05.
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
6. Signs pursuant to Sections 7.06 through 7.08.
7. Decks, gazeboes, elevated patios either attached or detached.
8. Family Child Care Home I

*5.05.06 Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	3	150	(1)	20	40	35	40%
Conditional Uses	3	150	(1)	20	40	35	40%
Accessory Uses / Structures (2)	-	-	(1)	20	40	35	5% (2)

1. Front yard setback shall be 40 feet from the property line or 100 feet from the centerline of a county road with 66 feet of R.O.W, whichever is greater.
2. Accessory buildings shall not exceed the smallest of 3,600 square feet or five percent of the size of the lot; however, in no case shall an accessory building exceed 150 percent of the size of the dwelling. The total coverage for all structures shall not exceed 40 percent.

*5.05.07. Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein
2. Only one principal building shall be permitted on one zoning lot except as otherwise provided

**Section 5.06 RS Residential Subdivision District**

5.06.01 *Intent:* The Residential Subdivision District is established for the purpose of identifying appropriate land for subdivision-density residential development while preserving agricultural resources. It is not intended for intensive agricultural uses. These areas are in the identified growth areas for the community, and the district is designed to manage future development.

5.06.02 *Permitted Uses:*

The following principal uses are permitted in the RS District.

1. Horticulture and orchards.
2. Public overhead and underground local distribution utilities.
3. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
4. Public Uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems, community centers, auditoriums, libraries or museums.
5. Single family dwelling.

5.06.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the RS District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Cemeteries, crematories, mausoleums and columbaria, provided all structures are located at least 100 feet from all property lines.
2. Churches, temples, seminaries, and convents, including residences for pastors and teachers.
3. Commercial camping areas.
4. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes.
5. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
6. Family Child Care Home II
7. Public and private schools, colleges, and universities.

5.06.04 *Temporary Uses:* The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.

5.06.05 *Permitted Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted and conditional uses, including satellite dishes.
2. Fences pursuant to Section 7.11.
3. Home occupation, pursuant to Section 7.09.
4. Parking pursuant to Sections 7.01 through 7.05.
5. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
6. Signs pursuant to Sections 7.06 through 7.08.
7. Decks, gazeboes, elevated patios either attached or detached.
8. Family Child Care Home I

5.06.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Street Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Residential Dwelling (private well, private septic)	3 acres	150	35	15	30	30 (3)	35	20%
Residential Dwelling (public water, private septic)	1 acre	150	35	15	30	30 (3)	35	20%
Residential Dwelling (public water, public sewer)	20,000 sq. ft.	80	35	15	30	30 (3)	35	20%
Other Permitted Uses	20,000 sq. ft.	80	35	15	30	30 (3)	45	20%
Permitted Conditional Uses	3 acres	100	75	25	30	30 (3)	45	20%
Accessory Uses / Structures	-	-	35 (1), (3)	10 (3)	30	10 (2)	25	5% (2)

1. On lots of 20,000 square feet, the accessory building shall not exceed 1,200 square feet total area. On lots greater than one acre, the accessory building shall not exceed the smallest of 3,600 square feet or five percent of the size of the lot; however, in no case shall an accessory building exceed 150 percent of the size of the dwelling.
2. In the case of an accessory building that exceeds 1,200 square feet in total area, the required front, side, and rear yard setbacks shall be doubled to 70 feet, 20 feet, and 20 feet, respectively.
3. See Section 4.09.05 of this Ordinance.
4. On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street.

5.06.07. *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein
2. Only one principal building shall be permitted on one zoning lot except as otherwise provided

**Section 5.07 R-1 Low Density Residential District**

5.07.01 *Intent:* The Low Density Residential District is intended to permit low-density residential developments to accommodate residential and other compatible uses.

5.07.02 *Permitted Uses:*

The following principal uses are permitted in the R-1 District.

1. Churches, temples, seminaries and convents, including residences for teachers and pastors.
2. Private clubs or organizations not operated for profit.
3. Public and private schools, colleges, and universities.
4. Public Uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems, community centers, auditoriums, libraries or museums.
5. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
6. Single family detached dwellings.

5.07.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-1 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes.
2. Private country clubs and golf courses, not including commercial miniature golf, located on not less than ten 10 acres.
3. Public utility substations, distribution centers, regulator stations, pumping stations, water reservoirs, and telephone exchanges.
4. Single-family attached dwellings
5. Townhouses.
6. Two-family dwellings.
7. Family Child Care Home II

5.07.04 *Temporary Uses:* The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.

5.07.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the principal uses.
2. Home occupation, pursuant to Section 7.09.
3. Swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
4. Signs pursuant to Sections 7.06 through 7.08.
5. Parking for permitted uses pursuant to Sections 7.01 through 7.05.
6. Fences pursuant to Section 7.11.
7. Decks, gazebos, elevated patios either attached or detached.
8. Family Child Care Home I

5.07.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Street Side Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single Family Detached Residential	8,500	60	30	7	35 (3)	25	35	35%
Single Family Attached Residential (per unit)	4,250	30	30	10 (5)	35 (3)	25	35	35%
Two Family Residential	8,500	60	30	10	35 (3)	25	35	35%
Other Permitted Uses	8,500	60	30	10	35 (3)	25	35	35%
Permitted Conditional Uses	8,500	60	30	10	35 (3)	25	35	35%
Accessory Uses	-	-	30	5	5	25	17	10% (2)(6)

1. Side yard setback shall be seven feet for single story structures and eight feet for taller structures.
2. The total lot coverage shall not exceed 45 percent. **(Ordinance 761, 4/21/20)**
3. See Section 4.09.05 of this Ordinance.
4. On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street.
5. The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.
6. Minimum pervious coverage of 40% is required on all lots. **(Ordinance 794 5/17/22)**

5.07.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein
2. Only one principal building shall be permitted on one zoning lot except as otherwise provided
3. Existing Structures can be rebuilt to current codes in the existing setback and footprint.

**Section 5.08 R-2 Medium/High Density Residential District**

5.08.01 *Intent:* The purpose of the Medium/High Density Residential District is to permit single-family residences at a medium and/or high density with an increase of density to include duplexes and similar residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.08.02 *Permitted Uses:*

The following principal uses are permitted in the R-2 District.

1. Churches, temples, seminaries and convents, including residences for teachers and pastors.
2. Public and private schools, colleges, and universities.
3. Public Uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems, community centers, auditoriums, libraries or museums.
4. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
5. Single family detached dwellings.
6. Single Family attached dwellings
7. Townhouses.
8. Two Family dwellings.

5.08.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the R-2 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Private and public country clubs and golf courses, not including commercial miniature golf, located on not less than 10 acres.
2. Public utility substations, distribution centers, regulator stations, pumping stations, water reservoirs, and telephone exchanges.
3. Bed and Breakfast.
4. Multiple Family dwellings.
5. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.
6. Civic, social and fraternal organizations.

5.08.04 *Temporary Uses:* The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.

5.08.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the principal use.
2. Home occupation, pursuant to Section 7.09.
3. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
4. Signs pursuant to Sections 7.06 through 7.08.
5. Parking pursuant to Sections 7.01 through 7.05.
6. Fences pursuant to Section 7.11.
7. Decks, gazebos, elevated patios either attached or detached.
8. Family Child Care Home I

5.08.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Street Side Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Single Family Detached	6,000	60	30	5	25 (3)	25	35	35%
Single Family Attached and Townhouse (per unit)	3,500	18	30	(1)	25 (3)	25	35	35%
Two Family	6,000	60	30	5	25 (3)	25	35	35%
Multiple Family	1,500 per unit	50	30	5 (2)	25 (3)	25	45	35%
Other Permitted Uses	6,500	50	30	5	25 (3)	25	35	50%
Permitted Conditional Uses	6,500	50	30	5	25 (3)	25	35	50%
Accessory Uses	-	-	30	5	5	25	17	10% (5)(4)

1. The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lotline.
2. The Side Yard Setback shall be 10 feet if the structure is over 30 feet in height
3. See Section 4.09.05 of this Ordinance.
4. The total lot coverage of all buildings does not exceed 45%. **(Ordinance 761, 4/21/20)**
5. Minimum pervious coverage of 40% required on all lots. **(Ordinance 794, 5/17/22)**

5.08.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein
2. Only one principal building shall be permitted on one zoning lot except as otherwise provided.
3. Existing structures can be rebuilt to current codes in the existing setback and footprint.

**Section 5.10 B-1 General Commercial District**

5.10.01 *Intent:*

The General Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.

5.10.02 *Permitted Uses:*

The following principal uses are permitted in the B-1 District.

1. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services.
2. Child Care Center.
3. Public Uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems, community centers, auditoriums, libraries or museums.
4. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
5. Dance studio.
6. Meeting hall.
7. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a. Antique store
  - b. Automobile parts and supply store
  - c. Bank
  - d. Barber and Beauty shop
  - e. Bicycle shop
  - f. Communication services
  - g. Computer store
  - h. Dry cleaners – establishments (not over 2,000 sq. ft. in floor area) with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
  - i. Exercise, fitness and tanning spa.
  - j. Floral shop
  - k. Gift and curio shop
  - l. Hobby, craft, toy store
  - m. Jewelry store
  - n. Laundry and dry cleaning pick-up and delivery stations
  - o. Locksmith
  - p. Photographer
  - q. Picture framing shop
  - r. Restaurants, cafes and fast food establishment
  - s. Second hand stores
  - t. Tanning salon
  - u. Video store, not including uses defined in Adult Establishment
  - v. Social club and fraternal organizations.
  - w. Telephone exchange
  - x. Telephone answering service
  - y. Public overhead and underground local distribution utilities.
  - z. Commercial greenhouse.
  - aa. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least 100 feet away from any (R) District boundary.

5.10.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the B-1 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Recreational establishments.
2. Business or trade school.
3. Garden supply and retail garden center.
4. Liquor store
5. Tavern and cocktail lounge.
6. Temporary greenhouses.
7. Totally enclosed, automated and conveyor-style car washes.
8. Outdoor Entertainment.
9. Convenience store with limited fuel sales.
10. Residences in conjunction with the principle use when located above the ground floor.
11. Churches, temples, seminaries, and convents including residences for teachers and pastors.
12. Printing and publishing.
13. Retail motor vehicle sales and service.
14. Car wash.
15. Multi-family dwelling units
16. Service station and minor automobile repair services.
17. Tire store and minor automobile repair service.
18. Public Utility offices, garages, and dispatcher centers
19. Motels, hotels and trailer campgrounds.

5.10.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.
3. Fireworks stands provided the criteria are met as established by the City through separate Ordinance.

5.10.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as permitted in Section 7.01 through 7.05
3. Signs allowed in Section 7.06 through 7.09
4. Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work.

5.10.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be follows:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	(3)	-	25'	(1)	(2)	45'	40%
Multi Family Residential	1,500 sq.ft /unit(3)	-	25'	(1)	(2)	45'	40%
Conditional Uses	(3)	-	25'	(1)	(2)	45'	40%
Accessory Uses	-	-	25'	(1)	(2)	45'	40%

1. None, except that when adjacent to any residential district, the side yard setback shall be 25 feet.
2. None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet, unless there is an alley between the two, in which case the rear yard setback shall be five feet.
3. Minimum Lot Area to be calculated based upon Maximum Lot Coverage, Building footprint, and required ancillary uses like parking and landscaping and Section 5.10.06 unless otherwise noted.

5.10.07 *Miscellaneous Provisions:*

1. Supplementary regulations shall be complied with as defined herein.
2. When adjacent to residentially zoned land, no parking or drives shall be allowed in the required front yard within 15 feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7-11.

3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

**Section 5.11 B-2 Central Business District**

5.11.01 *Intent:* The Central Business District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.

5.11.02 *Permitted Uses:*

The following principal uses are permitted in the B-2 District.

1. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services.
2. Public Uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems, community centers, auditoriums, libraries or museums.
3. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
4. Retail business or service establishments supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a). Antique store.
  - b). Automobile parts and supply store.
  - c). Bank.
  - d). Barber and Beauty shop.
  - e). Bicycle shop.
  - f). Commercial greenhouse.
  - g). Computer store.
  - h). Dance studio.
  - i). Exercise, fitness and tanning spa.
  - j). Floral shop.
  - k). Gift and curio shop.
  - l). Hobby, craft, toy store.
  - m). Jewelry store.
  - n). Laundry pick-up and delivery stations.
  - o). Locksmith.
  - p). Meeting hall.
  - q). Photographer.
  - r). Picture framing shop.
  - s). Printing shop.
  - t). Restaurants, cafes and fast food establishment.
  - u). Second hand stores.
  - v). Self-service laundries.
  - w). Social club and fraternal organizations.
  - x). Tanning salon.
  - y). Telephone exchange.
  - z). Telephone answering service.
  - aa). Theater (indoor).
  - bb). Public overhead and underground local distribution utilities.
  - cc). Video store.

5.11.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the B-2 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Automobile or boat repair, provided all inoperable or junk vehicles are kept in a screened area or in an enclosed building.
  - a) The sales and parking lots of the uses shall be hard surfaced in concrete or asphalt.
  - b) The sales lots shall be designed to allow 250 square feet of area per vehicle intended to be on display and within the inventory.
  - c) The parking requirements in sections 7.01 – 7.05 shall be applied in the case of employee and customer needs.

- d) The property shall be designed in order to provide proper ingress and egress from the site.
- 2. Business or trade school.
- 3. Car wash facility.
- 4. Churches, temples, seminaries, and convents including residences for teachers and pastors.
- 5. Convenience store with limited fuel sales.
- 6. Dry cleaning establishments not over 2,000 sq. ft. in floor area, with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
- 7. Frozen food locker.
- 8. Garden supply and retail garden center.
- 9. Gas station.
- 10. Liquor store.
- 11. Lumber yard.
- 12. Mortuary.
- 13. Parking garage provided it is located at least 50 feet from any residential district.
- 14. Residence used in conjunction with a principle use, provided it is located above the ground floor.
- 15. Retail motor vehicle sales and service.
- 16. Tavern and cocktail lounge.
- 17. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least 100 feet away from any (R) District boundary.

5.11.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

- 1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- 2. Temporary structure for festivals or commercial events.
- 3. Fireworks stands provided the criteria are met as established by the City through separate Ordinance.

5.11.05 *Accessory Uses:*

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Signs pursuant to Sections 7.06 through 7.08.
- 3. Parking pursuant to Sections 7.01 through 7.05.
- 4. Fences pursuant to Section 7.11.

5.11.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be follows:

Use	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	-	-	-	(1)	(2)	45'	-
Conditional Uses	-	-	-	(1)	(2)	45'	-
Accessory Uses	-	-	-	(1)	(2)	45'	-

- 1. None, except that when adjacent to any residential district, the side yard setback shall be 10 feet.
- 2. None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet.

5.11.07 *Use Limitations:*

- 1. When adjacent to any residential district, no parking drives or signs shall be allowed within 15 feet of such district.
- 2. When adjacent to residentially zoned land, new construction must provide a permanent screen six feet in height in order to minimize impacts on residentially zoned property.
- 3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

**Section 5.12 B-3 Highway Business District**

5.12.01 *Intent:* The Highway Business District is intended to establish standards that will foster and maintain a commercial area along Nebraska Highway 92, distinct from commercial areas located within the downtown or other portions of the community. The design standards in this district are designed to promote safe traffic circulation on, off and across the highway, high quality design and site planning, and flexibility in development in order to provide an attractive, viable employment corridor.

5.12.02 *Permitted Uses:*

The following principal uses are permitted in the B-3 District.

1. Antique sales establishments.
2. Barber shops and beauty parlors.
3. Bowling alley, drive-in restaurant, indoor theater or other such entertainment establishment, provided any such building is located at least 100 feet away from any Residential District boundary.
4. Business Offices.
5. Car Washes not including Truck washes for Livestock haulers.
6. Farm implements display or salesroom.
7. Filling stations and convenience stores.
8. Frozen food lockers.
9. Golf driving ranges, miniature golf.
10. Laundries and dry-cleaning establishments.
11. Lumber yards, hardware stores and building material sales yards.
12. Marine craft displays, sales, service and repair including accessories.
13. Mortuaries and funeral homes.
14. Motels, hotels and trailer campgrounds.
15. Private clubs and lodges.
16. Professional offices.
17. Public utilities and railroad facilities.
18. Restaurants including drive-thru facilities, and cafes.
19. Nightclubs and taverns.
20. Veterinarian or animal hospital provided any such building, kennel, or exercise runway is located at least 100 feet away from any Residential District boundary.
21. Public Uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems, community centers, auditoriums, libraries or museums.
22. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.

5.12.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the B-3 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Multi-family dwelling units.
2. Living quarters used by watchmen or custodians of any commercially used property.
3. Self-storage garages provided the standards of Section 7.14 are met.
4. Automobile displays, sales, service, and repair provided the following minimum standards are met:
  - a) The sales and parking lots of the uses shall be hard surfaced in concrete or asphalt.
  - b) The sales lots shall be designed to allow 250 square feet of area per vehicle intended to be on display and within the inventory.
  - c) The parking requirements in sections 7.01 – 7.05 shall be applied in the case of employee and customer needs.
  - d) The property shall be designed in order to provide proper ingress and egress from the site.
5. Telephone exchanges.
6. Retail business or service establishments supplying commodities or performing services either as a standalone business or within a strip mall or mall development such as:
  - a). Bakeries.
  - b). Commercial or vocational schools.
  - c). Department stores.

- d). Drug stores or pharmacies.
- e). Furniture stores.
- f). Grocery stores.
- g). Gift Shops.
- h). Hardware Stores.
- i). Parking garages.
- j). Specialty Shops.
- k). Theaters (indoor)
- l). Theater (outdoor).
- m). Variety stores.

5.12.04 *Temporary Uses:* The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

- 1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- 2. Temporary structure for festivals or commercial events.
- 3. Fireworks stands provided the criteria are met as established by the City through separate Ordinance.

5.12.05 *Accessory Uses:*

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Signs pursuant to Sections 7.06 through 7.08.
- 3. Parking pursuant to Sections 7.01 through 7.05.
- 4. Fences pursuant to Section 7.11.
- 5. Decks, gazeboes, elevated patios either attached or detached.

5.12.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	(3)	-	25'	(1)	(2)	45'	40%
Multi Family Residential	(3)	-	25'	(1)	(2)	45'	40%
Conditional Uses	(3)	-	25'	(1)	(2)	45'	40%
Accessory Uses	-	-	25'	(1)	(2)	45'	40%

- 1. None, except that when adjacent to any residential district, the side yard setback shall be 25 feet.
- 2. None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet, unless there is an alley between the two, in which case the rear yard setback shall be five feet.
- 3. Minimum Lot Area to be calculated based upon Maximum Lot Coverage, Building footprint, and required ancillary uses like parking and landscaping and Section 5.10.07.

5.12.07 *Use Limitations:*

- 1. When adjacent to any residential district, no parking signs shall be allowed in the required front yard within 15 feet of such district. Furthermore, when adjacent to residentially zoned land, new construction must provide a permanent screen of six feet in height in order to minimize impacts on residentially zoned property.
- 2. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 3. Exterior lighting fixtures, other than publicly installed street lights, shall be located and installed to reflect light away from abutting residential properties.
- 5. All lots shall be served by a paved frontage road and may not take access directly from any Highway.

**Section 5.13 I-1 Light Industrial District**

5.13.01 *Intent:* It is the intent of the Light Industrial District to provide standards for areas suitable for some limited industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties.

5.13.02 *Permitted Uses:*

The following principal uses are permitted in the I-1 District.

1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
2. Automobile storage yard provided all vehicles are kept in an enclosed and screened area.
3. Bottling work.
4. Building materials yards with enclosed and screened storage areas.
5. Carting, express, or storage yard.
6. Construction and heavy equipment sales and service.
7. Dying and cleaning establishments.
8. Farm and industrial equipment sales.
9. Highway maintenance yards or buildings.
10. Laboratories.
11. Machine shop or metal working excluding drop hammers and other noise producing tools.
12. Manufacture and assembly of electrical and electronic appliances.
13. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
14. Printing and publishing business.
15. Self-storage units provided the standards of Section 7.14 are met.
16. Stone and monument works.
17. Utility substations, pumping stations, and water reservoirs.
18. Warehouses and wholesale businesses.

5.13.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I-1 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Concrete or cement product manufacturing.
2. Grain storage bins and elevators.
3. Auto body repair shops, provided the following minimum standards are met:
  - a) all vehicles waiting on repair shall be behind an opaque screened area
  - b) all exhaust fumes from painting areas shall meet all Federal and State requirements
  - c) All parts shall be in a screened in area.
  - d) Parts shall not be stacked taller than the fence or wall
  - e) Parts are not intended to be inventoried for more than a one year period
  - f) Screened areas and business are not to be used in a manner that would be defined as either a "Automobile Wrecking Yard" or "Junk Yard".
  - g) Screened in areas shall be opaque fence or solid wall at least eight feet in height.
4. Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use.
5. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
6. Telecommunication and Broadcast towers, pursuant to Section 7.10.
7. Research facilities.
8. Automobile junk yard or wrecking yard, provided the standards of Section 7.15 are met.
9. Truck terminal and dock facilities to include truck washing.

5.13.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.
3. Fireworks stands provided the criteria are met as established by the City through separate Ordinance.

5.13.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Signs pursuant to Sections 7.06 through 7.08.
3. Parking pursuant to Sections 7.01 through 7.05.
4. Fences pursuant to Section 7.11, including perimeter fencing above six feet in height.

5.13.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	(3)	-	25'	(1)	(2)	45'	-
Conditional Uses	(3)	-	25'	(1)	(2)	45'	-
Accessory Uses	-	-	25'	(1)	(2)	45'	-

1. None, except that when adjacent to any residential district, the side yard setback shall be 10 feet.
2. None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet.
3. Minimum Lot Area to be calculated based upon Maximum Lot Coverage, Building footprint, and required ancillary uses like parking and landscaping and Section 5.10.06 unless otherwise noted.

5.13.07 *Use Limitations:*

1. The minimum height requirement may be exceeded, provided the setback is increased by one foot for every one foot increase in building height.
2. When adjacent to residentially zoned land, no parking, driveways or signs shall be allowed in the required front yard within 15 feet of said residential district.
3. When adjacent to residentially zoned land, new construction must provide a permanent screen six feet in height in order to minimize impacts on residentially zoned property.
4. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
5. Exterior lighting fixtures, other than publicly installed street lights, shall be located and installed to reflect light away from abutting residential properties.

5.13.08 *Performance Standards:*

See Section 7.12 of the Supplemental Regulations.

**Section 5.14 I-2 Heavy Industrial District**

5.14.01 *Intent:* It is the intent of the Heavy Industrial District to provide standards for areas suitable for some intense industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties.

5.14.02 *Permitted Uses:*

The following principal uses are permitted in the I-2 District.

1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
2. Automobile storage yard provided all vehicles are kept in an enclosed and screened area.
3. Bottling work.
4. Building materials yards with enclosed and screened storage areas.
5. Carting, express, or storage yard.
6. Construction and heavy equipment sales and service.
7. Dying and cleaning establishments.
8. Farm and industrial equipment sales.
9. Highway maintenance yards or buildings.
10. Laboratories.
11. Machine shop or metal working excluding drop hammers and other noise producing tools.
12. Manufacture and assembly of electrical and electronic appliances.
13. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
14. Printing and publishing business.
15. Self-storage units provide the standards of Section 7.14 are met.
16. Stone and monument works.
17. Utility substations, pumping stations, and water reservoirs.
18. Warehouses and wholesale businesses.
19. Contractors' yard.
20. Grain storage bins and elevators.
21. Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use.
22. Livestock auction or sales barn.

5.14.03 *Conditional Uses:*

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the I-2 District as recommended by the Planning Commission and City Council and approved by the City Council.

1. Alfalfa dehydrating plant.
2. Asphalt mixing, manufacture, or refining.
3. Auto body repair shops, provided the following minimum standards are met:
  - a) all vehicles waiting on repair shall be behind an opaque screened area
  - b) all exhaust fumes from painting areas shall meet all Federal and State requirements
  - c) All parts shall be in a screened in area.
  - d) Parts shall not be stacked taller than the fence or wall
  - e) Parts are not intended to be inventoried for more than a one year period
  - f) Screened areas and business are not to be used in a manner that would be defined as either a "Automobile Wrecking Yard" or "Junk Yard".
  - g) Screened in areas shall be opaque fence or solid wall at least eight feet in height.
4. Automobile junk yard or wrecking yard provided the standards of Section 7.15 are met.
5. Boiler works.
6. Concrete or cement product manufacturing.
7. Disinfectant manufacture.
8. Ethanol plant.
9. Exterminator and insect poison manufacture.
10. Grain storage bins and elevators.

11. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
12. Telecommunication and Broadcast tower, pursuant to Section 7.10.
13. Research facilities.
14. Truck terminal and dock facilities to include truck washing.

5.14.04 *Temporary Uses:* The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.
3. Fireworks stands provided the criteria are met as established by the City through separate Ordinance.

5.14.05 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Signs pursuant to Sections 7.06 through 7.08.
3. Parking pursuant to Sections 7.01 through 7.05.
4. Fences pursuant to Section 7.11, including perimeter fencing over six feet in height..

5.14.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows:

	Lot Area (sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max. Height (feet)	Max. Lot Coverage
Permitted Uses	(3)	-	25'	(1)	(2)	45'	-
Conditional Uses	(3)	-	25'	(1)	(2)	45'	-
Accessory Uses	-	-	25'	(1)	(2)	45'	-

1. None, except that when adjacent to any residential district, the side yard setback shall be 10 feet.
2. None, except that when adjacent to any residential district, the rear yard setback shall be 25 feet.
3. Minimum Lot Area to be calculated based upon Maximum Lot Coverage, Building footprint, and required ancillary uses like parking and landscaping and Section 5.10.06 unless otherwise noted.

5.14.07 *Use Limitations:*

1. The minimum height requirement may be exceeded, provided the setback is increased by one foot for every one foot increase in building height.
2. When adjacent to residentially zoned land, no parking, driveways or signs shall be allowed in the required front yard within 15 feet of said residential district.
3. When adjacent to residentially zoned land, new construction must provide a permanent screen in order to minimize impacts on residentially zoned property, pursuant to Section 7.11.
4. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
5. Exterior lighting fixtures, other than publicly installed street lights, shall be located and installed to reflect light away from abutting residential properties.

5.14.08 *Performance Standards:*

See Section 7.12 of the Supplemental Regulations.

**Section 5.15 Clustered / Mixed Use Development District (CMD).****5.15.01 Intent:**

The Clustered / Mixed Use Development District (CMD) is to encourage the creative design of new living and retail areas, as distinguished from subdivisions of standard lot sizes, in order to permit such creative design in buildings, open space, while promoting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

When a CMD District is requested, it will require a change of zone with the CMD being attached to the underlying district. Once the rezoning is approved, the allowed uses and standards herein shall modify the minimum requirements of the underlying district.

**5.15.02 Permitted Uses:**

The following uses are permitted in the Clustered / Mixed Use Development District provided the requirements of this Article are met.

1. Single-family Dwellings
2. Single-family attached Dwellings containing three or fewer dwellings
3. Townhouses and Condominiums containing three or fewer dwellings

**5.15.03 Conditional Uses**

The following uses may be allowed through the approval of a Conditional Use Permit, as established by this Ordinance, provide all noted, as well as any special conditions required by the City Council are met.

1. Churches, temples, seminaries, and convents, including residences for pastors and teachers.
2. Private recreation areas and facilities, including lakes, ponds, country clubs, golf courses, and swimming pools.
3. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
4. Commercial uses provided the following are met as a minimum:
  - a. Established as part of a mixed use development
  - b. That the commercial use is consistent with the residential uses of the development
  - c. The commercial use does not create any secondary effects that impact the health, safety, general welfare and morals of the other uses
  - d. The residential density exceeds the density of the commercial uses
  - e. The commercial uses provide ordinary services associated with residential uses
  - f. The commercial uses provide solid and/or natural buffering when adjacent to residential lots as required in Sections 7.11 of this Ordinance.
  - g. Proper access shall be provided to all commercial uses
5. Multi-family structures containing more than three dwelling units provided the following are met as a minimum:
  - a. Established as part of a mixed use development
  - b. The multi-family density does not exceeds the density of the single family density
  - c. The multi-family dwellings provide solid and/or natural buffering when adjacent to single-family lots as required in this Ordinance.
  - d. Proper access shall be provided to all multi-family units
6. Community centers and/or clubhouses provided the Development Plan required under Section 7.11 below reflects the location of such use and the structure is compatible with other structures within the development.
7. Single-family attached containing three or more dwellings.
8. Townhouses and Condominiums containing three or more dwelling.

**5.15.04 Temporary Uses:** The following temporary uses shall be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

1. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
2. Temporary structure for festivals or commercial events.

5.15.05 *Permitted Accessory Uses:*

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses in accordance with Article 6 of this Ordinance.
2. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
3. Signs as required in Sections 7.06 through 7.08.
4. Parking as required in Sections 7.01 through 7.05.
5. Home Occupations in accordance with Section 7.09 of this Ordinance.
6. Decks, gazeboes, elevated patios either attached or detached.
7. Family Child Care Home I

5.15.06 *Height and Lot Requirements:* The height and minimum lot requirements shall be as follows::

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Maximum Height (feet)	Max. Lot Coverage
Single Family	4,000	40	*	*	*	35	*
Multi-Family	1,500 per unit**	60	25	7 or 10 if over 30' in height	25	40	
Townhouses, Condominiums	2,500	18	*	*	*	*	*
Other Permitted Uses	*	*	*	*	*	40	*
Accessory Buildings	---	---	*	*	*	15	*

<sup>1</sup> lot and yard requirements are dependent upon the development and may vary depending upon areas being conserved or special amenities being used or established and will be reviewed upon submittal of the Development Plan

\*\* Minimum Lot size is 7,500 square feet.

5.15.07 *Supplemental Requirements:*

1. The Planning Commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a CMD plan approval, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.
  - a. Said CMD shall be in general conformity with the provisions of the Yutan Comprehensive Plan.
  - b. Said CMD shall not have a substantially adverse effect on the development of the neighboring area.
  - c. The minimum size allowed for a CMD District by type of use shall be as follows:  
 Residential (only), three acres;  
 Residential - Commercial (combination), five acres.
  - d. Height, bulk, and yard requirements shall be reflected on the Development Plan and shall promote an efficient and creative use of land.
2. Use Limitations:  
 In District CMD no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in this District. All uses must be approved as shown on the Development Plan as specified in this division.
3. Standards and conditions for development:  
 A development proposed for land classified as the CMD district shall be consistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, public facilities, and the Development Plan shall, where applicable, reflect compliance.
  - a. The applicant shall satisfy the Planning Commission and City Council that there is the ability to carry out the proposed plan, including financial assurances and the phasing

of the project, and shall prepare and submit a schedule of construction, if necessary. The proposed construction shall begin within a period of 12 months following the approval of the final application by the City Council. A minimum of 50% of the total planned construction shown on the final plan shall be completed within a period of five years following such approval or the approval shall expire. If the approval expires under this section, the applicant shall show good cause to the Planning Commission to extend the plan approval.

- b. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the City Council to be reasonably required to assure performance in accordance with the Development Plan and to protect the public interest in the event of abandonment of said plan before completion.
- c. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
- d. The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
- e. The entire tract or parcel of land to be occupied by the CMD development shall be held in single ownership or control, or if there are two or more owners, the application for such CMD development shall be filed jointly by all owners. This provision may be waived provided that the land contains existing improvements.
- f. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a CMD development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved as shown on the Development Plan.
- g. Off-street parking and loading shall be provided in accordance with the parking and loading regulations of the City of Yutan.
- h. When a commercial use within a CMD District abuts a residential district, the Development Plan shall reflect screening consisting of landscaping and/or fencing provided adjacent to any adjoining residential district; except in the event the adjacent residential use and the commercial use are separated by a street right-of-way.
- i. All residential and commercial buildings shall set back not less than 25 feet from the perimeter of the land zoned CMD. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the planning commission for protection of health, safety, and general welfare.
- j. Building coverage area shall not exceed the following percentages of the net developable area of each individual parcel of the total development:
  - Residential: 60 percent maximum;
  - Commercial: 50 percent maximum.

NOTE: Building coverage area, is the area covered by building(s) or structure(s) on each individual lot or parcel (not including such impervious improvements such as but not limited to walkways, driveways, patios etc). The net developable area shall be the area of each parcel and the net of any required yard required under the Development Plan. The Development Plan shall reflect the calculations used to demonstrate compliance with this requirement.

- k. A minimum of 20 percent of the net area of that part of a CMD development reserved for residential use shall be provided for Common Areas as defined by these regulations under subsection (p) below. The term “net area” shall be the gross area, measured in square feet, of the Development Plan devoted to residential use less the area dedicated for public streets. Common Areas shall be defined as playgrounds, street medians, landscaped green space, or other similar areas designed to be used by the residents of the development in common with each other. Common Areas for the

- leisure and recreation of development residents shall be owned and maintained in common by them, through a homeowner's association.
- l. The CMD District shall include such provisions for the ownership and maintenance of the Common Areas as are reasonably necessary to insure its continuity, care, conservation, and maintenance, and to insure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community. The applicant shall submit any protective covenants and organizational documents of the homeowner's association with the Development Plan.
  - m. No residential use shall have direct access onto an arterial street unless approved by the City Council in the Development Plan.
  - n. Any commercial use must reflect its traffic flow on the Development Plan. All commercial areas must have indirect access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets.
  - o. Sidewalks shall be built to City specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the CMD development.
  - p. Common Areas as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, community buildings, or accessory structures, except recreational structures. Common Areas shall include open space that is accessible and available to all owners or residents in common pursuant to an Owner's Association.

5.15.08 *Application for approval of Clustered / Mixed Use Development:*

1. An application for a CMD shall be handled in the same manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public hearing, protests, and adoption shall be required as zoning changes.
2. The applicant shall prepare and submit 3 copies of the development plan (the "Development Plan") of the proposed development in the CMD District for review and approval by the Planning Commission. The Development Plan shall include:
  - a. A site plan showing:
    - Contours at intervals of two feet or spot elevations on a one hundred foot grid shall be required on flat land;
    - Location, size, height, and use of all proposed structures and proposed yards on each lot;
    - All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
    - All streets adjoining subject property and the width of the existing right-of-way;
    - Areas set aside for Common Areas with the type of use or recreational facilities planned for each;
    - Designation of individual parcels if the proposed development is to be set up in separate construction phases;
    - Designation of individual lots if such lots are proposed to be sold to individual owners;
    - Location of required screening;
    - Location of natural features such as ponds, tree clusters, and rock outcropping;
    - Existing development on adjacent properties within 200 feet.
  - b. The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when, said items are applicable:
    - Net area in square feet of the development. (*Note:* Net area shall be computed as the gross area less the land dedicated or necessary to be dedicated for public street right-of-way.
    - Density of dwelling units per acre of the total dwelling units for the entire plan.

- Building coverage of the net area of the development by individual parcel or total development.
  - The percentage of the Development Plan provided for common open space as defined by this regulation. (*Note:* 20 percent is the minimum).
  - If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
  - Required number of parking spaces and location.
  - Gross floor area proposed for commercial buildings.
  - All proposed land uses shall be listed by parcel.
- c. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
- d. The full legal description of the boundaries of the property or properties to be included in the CMD development.
- e. A vicinity map showing the general arrangement of streets within an area of 1,000 feet from the boundaries of the proposed CMD development.
- f. An elevation drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.
- g. When a CMD development includes provisions for common space and/or recreational facilities, a statement describing how such open space and/or facility be owned and maintained when not under the ownership of a governmental entity. A homeowner association or other controlling entity shall provide the City of Yutan with copies of the proposed articles of incorporation and bylaws of such entity.
3. The Planning Commission shall meet within 30 days of an application being filed. Plans shall be filed with the City at least four weeks prior to a scheduled Planning Commission meeting. After the application for a CMD development is filed, the Planning Commission shall hold a public hearing on said development after giving required notice for hearings in amendments. Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the planning commission shall prepare and transmit to the City Council and the applicant specific findings of fact with respect to the extent which the Development Plan complies with those regulations, together with its recommendations in respect to the action to be taken on the Development Plan and CMD requirements. The planning commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.
4. The City Council shall or shall not approve the Development Plan and authorize the submitting of the final Development Plan.
5. Substantial or significant changes in the preliminary plat and CMD design shall only be made after rehearing and reapproval unless the changes were otherwise required by the Planning Commission or the City Council.

5.15.09 *Final approval:*

1. After approval of a Development Plan and prior to the issuance of any building permit or zoning permit, the applicant shall submit an application for final approval with the CMD development compliance review committee. The CMD development compliance committee shall consist of members of the Yutan Planning Commission, Yutan City Council, the Zoning Administrator, the Yutan City Attorney, and/ or the Yutan City Engineer; this committee will be assembled only on an as needed basis. Said final application may include the entire CMD District or may be for a unit or section thereof as set forth in the approval of the preliminary plan. The application shall include 3 copies of such drawings, specifications, covenants, easements, conditions, and any other conditions including but not limited to performance bonds. As set forth in the approval of the Development Plan preliminary plan and in accordance with the conditions established in this chapter for a CMD District. The final plan shall include the same information, as the preliminary plan except the following shall also be provided:
- a. A surveyor's certificate certifying to the accuracy of the boundary surveys shown.
  - b. Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way;
  - c. All easements and appropriate building setback lines;

- d. All lot lines, and lot dimensions including chord distances for curvilinear lot lines;
  - e. Lot and/or parcel numbers;
  - f. Location, size, height, and use of all proposed or present buildings;
  - g. Dedication of all streets, public highways, or other land intended for public use, signed by the owner and by all other parties who have a mortgage or lien interest in the property, together with any restrictions or covenants which apply to the property.
  - h. A waiver of claim by the applicant for damages occasioned by the establishment of grades or the alteration of the surface of any portion of streets and alleys to conform to grades established.
2. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification of the Development Plan does not:
    - a. Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor
    - b. Increase by more than 10 percent the floor area proposed for non-residential use; nor
    - c. Increase by more than five percent the total ground area covered by buildings or involve a substantial change in the height of buildings; nor
    - d. Substantially change the design of the plan so as to significantly alter:
      - Pedestrian or vehicular traffic flow.
      - The juxtaposition of different land uses.
      - The relation of open space to residential development.
      - The proposed phasing of construction.
      - Proposed use of one or more buildings to a more intensive use category as delineated in this chapter.
  3. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan. The planning commission shall, within thirty 30 business days of the time of filing, review the final plan for compliance with the approved preliminary plan. Upon review approval, said final plan shall be filed with the City Council for final approval and acceptance.
  4. In the event that the final plan submitted contains changes in excess of those permitted under Subparagraph (2) above, applicant shall resubmit the original plan. The Development Plan shall be modified in the same manner prescribed in this division as for original approval.

5.15.10 *Enforcement and modification of plan:*

1. To further the mutual interest of the residents and owners of the CMD development and of the public in the preservation of the integrity of the CMD plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:
  - a. The use of land and the use, bulk, and location of buildings and structures; and
  - b. The quality and location of common space; and
  - c. The intensity of use or the density of residential units shall run in favor of the City and
  - d. Shall be enforceable in law or in equity, by the City, without limitation on any powers or regulation otherwise granted by law. The development of any land pursuant to an approved Development Plan shall be constructed in accordance with the requirements of Section 5.15 and the approved Development Plan.

5.15.11 *Amendments:*

The CMD District agreement or an approved Development Plan may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. Application for amendment

maybe made by the homeowner's association or 51 percent of the owners of the property within the CMD District.

5.15.12 *Platting:*

For unplatted tracts or tracts being replatted, the approval of the Development Plan shall be considered as the approval of a preliminary plan. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations, except the scale shall be 100 feet, 50 feet, or 20 feet to the inch.

5.15.13 *Fees:*

For the following applications, fees shall be paid to the City:

- a. Development Plan , filing fee shall be set by the City Council by separate ordinance;
- b. Final plan, filing fee shall be set by the City Council by separate ordinance.

These fees are separate and do not include any Preliminary and Final Plat Fees and/or any Change of Zone Fees required by the City of Yutan.

**Section 5.17 HO Highway Corridor Protection District (overlay district)**

5.17.01 *Intent:* The City of Yutan has established basic site development criteria to be implemented within the boundaries of this overlay district. These criteria include, but are not limited to the following: landscaping, signing, lighting, and interior street development. The motivation for regulating these issues is to provide for a cohesive and properly developed entrance into the City of Yutan. Guiding development in this manner promotes the general health, safety and welfare of the residents within the zoning jurisdiction of the City, by providing quality design and construction, which will also aid in the protection of past and future investment in the corridor.

5.17.02 *Purpose:*

The purpose of these criteria is to establish a checklist of those items that affect the physical and aesthetic aspects of Yutan's community entrances. Pertinent to appearance is the design of the site, planting, signs, street hardware, and miscellaneous other objects that are observed by the public. The uses allowed are governed by the underlying zoning district classification. This Section provides additional criteria which shall be adhered to within the HO overlay areas.

The criteria contained herein are not intended to restrict imagination, innovation or variety, but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance of the entrances to the City, preserve taxable values, and promote the public health, safety and welfare.

5.17.03 *Geographic Area:*

The Gateway Corridor Protection District extends generally along Nebraska Highway 92 within the one-mile extraterritorial jurisdiction of Yutan. The width of this district is approximately ¼ mile either side of centerline of Highway 92, or specifically as indicated on the Official Zoning Map

5.17.04 *Criteria for Application:*

All developments consisting of more than one principal building, mixed-uses, multiple-pad development and/or similar shall be required to rezone the property as a Clustered/Mixed Use Development (CMD) and meet the requirements of said district. The CMD process and rezoning shall be in conjunction with Preliminary and Final Plat review and approval.

5.17.05 *Vehicular Circulation:*

1. All development within the district shall have service roads. Highway access shall be minimized.
2. The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.
3. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.

5.17.06 *Landscape and Site Treatment:*

1. Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures.
2. Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development.
3. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
4. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
5. Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axis, and provide shade. Spectacular effects shall be reserved for special locations only.
6. Plant material shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.

7. The use of walls, fencing, planting, or combinations thereof shall be used to screen service yards and other places that tend to be unsightly. Screening shall be equally effective in winter and summer.
8. Exterior lighting, when used, shall enhance the building design and the adjoining building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.
9. Developments in the Highway Corridor Protection District shall meet all other applicable screening regulations pursuant to Section 7.\*\*.

5.17.07 *Signs:*

1. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
2. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
3. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
4. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.
5. Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
6. Identification signs of prototype design and corporation logos shall conform to the criteria for all other signs.
7. All signage shall comply with the Sign Regulations found in the Supplemental Regulations, pursuant to Section 7.06 through 7.08.

5.17.08 *Conflicts:*

All conflicts between this Section and the landscaping and sign sections shall be governed by the most restrictive regulation.

## **Section 5.18: Flood Plain Regulations**

5.18.01 *Statutory Authorization*

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety and general welfare.

5.18.02 *Findings of Fact*

1. **Flood Losses Resulting From Periodic Inundation**  
The flood hazard areas of Yutan, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.
2. **General Causes of the Flood Losses**  
These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.
3. **Methods Used to Analyze Flood Hazards**  
This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.
  - a. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is

in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated March 18, 1980 as amended, and any future revisions thereto.

- b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- c. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

5.18.03 *Statement of Purpose*

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 5.18.02 (1) by applying the provisions of this ordinance to:

1. Restrict or prohibit uses, which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities, which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands, which are unsuited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

5.18.04 *General Provisions*

1. **Lands to which ordinance applies**  
This ordinance shall apply to all lands within the jurisdiction of the City of Yutan, Nebraska identified on the Flood Insurance Rate Map (FIRM), and any revisions thereto, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 5.18.05 of this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the governing body or its duly designated representative under such safeguards and restrictions as the governing body or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 5.18.06 through 5.18.08.
2. **Enforcement Officer**  
The Building Inspector of the community is hereby designated as the community's duly designated Enforcement Officer under this Ordinance.
3. **Rules for interpretation of district boundaries**  
The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Adjustment and to submit his own technical evidence, if he so desires.
4. **Compliance**

Within identified special flood hazard areas of this community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

5. **Abrogation and Greater Restrictions**  
It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
6. **Interpretation**  
In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
7. **Warning and Disclaimer of Liability**  
The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of Building Inspector of the City of Yutan, Nebraska or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.
8. **Severability**  
If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
9. **Appeal**  
Where a request for a permit to develop or a variance is denied by the Building Inspector the applicant may apply for such permit or variance directly to the Board of Adjustment.

5.18.05 *Development Permit*

1. **Permit Required**  
No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 5.18.14.
2. **Administration**  
The Building Inspector is hereby appointed to administer and implement the provisions of this ordinance.
3. **Duties of the Building Inspector shall include, but not be limited to:**
  - a. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
  - b. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
  - c. Notify adjacent communities and the Nebraska Natural Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  - d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - e. Verify record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
  - f. Verify record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.

- g. When flood proofing is utilized for a particular structure the Building Inspector shall be presented certification from a registered professional engineer or architect.
4. Application for Permit
- To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
- a. Identify and describe the development to be covered by the floodplain development permit.
  - b. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
  - c. Indicate the use or occupancy for which the proposed development is intended.
  - d. Be accompanied by plans and specifications for proposed construction.
  - e. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
  - f. Give such other information as reasonably may be required by the Building Inspector.

5.18.06 *Establishment of Zoning Districts*

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts:

- 1. A floodway overlay district (FW) and
- 2. A flood fringe overlay district (FF) as identified in the Flood Insurance Study.

Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered "A" zones as identified on the official "FIRM" when identified in the Flood Insurance Study provided by the Federal Insurance Administration.

5.18.07 *Standards for Floodplain Development*

- 1. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.
- 2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface Section 5.18.08. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
- 3. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.
- 4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
  - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
  - c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as



- i. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
  - ii. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
  - iii. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - iv. Any additions to the manufactured home be similarly anchored.
- f. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
- i. Outside of a manufactured home park or subdivision,
  - ii. In a new manufactured home park or subdivision,
  - iii. In an expansion to an existing manufactured home park or subdivision, or
  - iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,
  - v. be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5.18.08 (2)(e).
- g. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 5.18.08 (2)(f) be elevated so that either:
- i. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
  - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of 5.18.08 (2)(e).
- h. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either
- i. be on the site for fewer than 180 consecutive days, .
  - ii. be fully licensed and ready for highway use, or
  - iii. meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

- i. Located within the areas of special flood hazard established in Section 5.18.04 (1) are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
- i. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
  - ii. All new construction and substantial improvements of non-residential structures shall:
    - (1) Have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet

- on the community's FIRM (at least two feet if no depth number is specified), or
- (2) Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 5.18.05 (3)(g).

Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

5.18.09 *Floodway Overlay District*

1. Permitted Uses

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District:

- a. Agricultural uses such as general farming, pasture, nurseries, forestry.
- b. Residential uses such as lawns, gardens, parking and play areas.
- c. Non-residential areas such as loading areas, parking and airport landing strips.
- d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 5.18.07 and 5.18.08. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State, or other sources or Section 5.18.07 (6)(d) of this Ordinance in meeting the standards of this Section.

5.18.10 *Variance Procedures*

1. The Board of Adjustment as established by City of Yutan, Nebraska shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this ordinance.
3. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 19-912, R.R.S. 1943.
4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Conditions for Variances

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (5.18.10 (5)(b)-(f) below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- f. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premiums rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

5.18.11 *Non-Conforming Uses*

A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

1. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Building Inspector in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 consecutive months.
2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
3. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

5.18.12 *Penalties for Violation*

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with

any of its requirements shall upon conviction thereof be fined not more than \$100.00 and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues it shall be considered a separate offense.

Nothing herein contained shall prevent the City of Yutan, Nebraska or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

5.18.13 *Amendments*

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Yutan. At least 15 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

5.18.14 *Definitions*

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application:

**"Appeal"** means a request for a review of the Building Inspector's interpretation of any provision of this ordinance or a request for a variance.

**"Area of Shallow Flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Base Flood"** means the flood having one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**"Existing Construction"** means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The usual and rapid accumulation of runoff of surface waters from any source.

**"Flood Fringe"** is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

**"Flood Insurance Study"** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

**"Floodplain"** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

**"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

**"Lowest floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

- "New Construction"** For floodplain management purposes, "new construction" means structures for which the "start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- "Overlay District"** is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.
- "Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure is above ground.
- "Recreational Vehicle"** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- "Special Flood Hazard Area"** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
- "Start of Construction"** [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.
- "Structure"** means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.
- "Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- "Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**"Variances"**

is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

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**ARTICLE 6: CONDITIONAL USE PERMITS**

**Section 6.01 General Provisions**

The City Council may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The City Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the City Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

**Section 6.02 Application for Conditional Use Permit**

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted.

**Section 6.03 Public Hearing**

Before issuance of any conditional use permit, the City Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Yutan, one time at least 10 days prior to such hearing.

**Section 6.04 Decisions**

A majority vote of the City Council shall be necessary to grant a conditional use permit. No order of the City Council granting a conditional use permit shall be valid for a period of longer than 12 months from the date of such order, unless the City Council specifically grants a longer period of time upon the recommendation of the Planning Commission.

**Section 6.05 Standards**

No conditional use permit shall be granted unless the Planning Commission and City Council has found:

- 6.05.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.05.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.05.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.05.04 That adequate utilities, access roads, and drainage facilities have been or are being provided.
- 6.05.05 Those adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.05.06 The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.05.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

- 6.05.08 The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
- 6.05.09 The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any Public Street, road, or highway.
- 6.05.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.05.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

**Section 6.06 Conditions**

In addition to the Standards listed in Section 6.05, the Planning Commission may recommend, and the City Council may adopt such other conditions as may be necessary or desirable to address such concerns as the most appropriate use of the land, the conservation and stabilization of the value of property, the provision of adequate open space for light and air, concentration of populations, congestion of public streets, and the promotion of the general health, safety, welfare, convenience, and comfort of the public. The City Council may require such conditions and restrictions upon the Conditional Use Permit as may be deemed necessary for the protection of the public interest and to secure compliance with this Ordinance.

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**ARTICLE 7: SUPPLEMENTAL REGULATIONS**

**Section 7.01 Off-Street Automobile Storage (Ordinance 793 10-18-22)**

- 7.01.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used.
- 7.01.02 In all districts except RS, R-1 and R-2, if vehicle storage space or standing space required in section 7.02 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the City Council, the City Council may permit such space to be provided on other off-street property, provided such property lies within the same zoning district and lies within 300 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. In Districts RS, R-1 and R-2 required off-street parking for residential use shall be provided on the lot on which is located the use to which the parking pertains.
- 7.01.03 Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
- 7.01.04 All primary (driveway from garage or primary parking, width of garage minimum) parking spaces for Single-family, Rooming houses, convalescent homes, Apartments, Townhouses, and two or more unit multi-family dwellings (installed or updated more than 50% after 11-1-22 shall be paved with asphalt or concrete. However, no lot shall be paved more than 40 percent of the Front Yard or the designated Front Yard setbacks on a corner lot.
- 7.01.05 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 7.01.06 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
- 7.01.07 The off-street parking requirements shall not apply to uses with the B-2 Downtown Commercial District.
- 7.01.08 No off-street parking allowed on city right of way unless on an approved surface.
- 7.01.09 Secondary off-street parking must be on an approved surface (gravel, paver, concrete, or asphalt). Gravel must be placed on top of a weed barrier and contained with a border to prevent rock from eroding. Secondary parking shall be subordinate to the primary parking in regard to size and shall be parallel to the primary driveway, or situated parallel to the home.
- 7.01.10 Automobile shall include all vehicles or trailers with one or more axles. In residential areas, only residential uses are allowed, and no commercial or industrial vehicles or trailers over 16000 GVWR or 3 or more axles including tag axles.

Section 7.02 Schedule of Minimum Off-Street Parking and Loading Requirements

Use	Parking Requirements	Loading Requirements
<b>Agricultural Sales / Service</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Assisted-living facilities</b>	One space per dwelling unit plus one space per employee on the largest shift	One space per rental unit
<b>Automotive Rental / Sales</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Automotive Servicing</b>	Three spaces per repair stall	None required
<b>Bars, Taverns, Nightclubs</b>	Parking equal to 30 percent of licensed capacity	Two spaces per establishment
<b>Boarding Houses / Bed and Breakfasts</b>	One space per rental units	None required
<b>Bowling Alleys</b>	Four spaces per alley	One space per establishment
<b>Campground</b>	One space per camping unit	None required
<b>Churches, Synagogues, and Temples</b>	One space per four seats in main worship area	None required
<b>Clubs, fraternal organizations</b>	One space per 500 s.f. of gross floor area	None required
<b>College/University</b>	Eight spaces per classroom plus one space per employee	Two spaces per structure
<b>Commercial Recreation</b>	One space per four persons of licensed capacity	One per establishment
<b>Communication Services</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Construction Sales / Service</b>	One space per 500 s.f. of gross floor area	One per establishment
<b>Convalescent and Nursing Home Services</b>	One space per three beds plus one per employee on the largest shift	Two space per structure
<b>Day Care</b>	One space per employee plus one space or loading stall per each ten persons of licensed capacity	None required
<b>Duplex</b>	Two spaces per dwelling unit	One per structure
<b>Educational Uses, Primary facilities</b>	Two spaces per classroom	Two spaces per structure
<b>Educational Uses, Secondary facilities</b>	10 spaces per classroom plus one space per employee on largest shift	Two spaces per structure
<b>Equipment Rental / Sales</b>	One space per 500 s.f. of gross floor area	One Space
<b>Food Sales (general)</b>	One space per 200 s.f. of gross floor area	Two per establishment
<b>Food Sales (limited)</b>	One space per 300 s.f. of gross floor area	One per establishment
<b>Funeral Homes and Chapels</b>	Eight spaces per reposing room	Two spaces per establishment
<b>General Retail Sales establishments</b>	One space per 200 s.f. of gross floor area	One per establishment
<b>Group Care Facility</b>	One space per four persons of licensed capacity	Two space per structure
<b>Group Home</b>	One space per four persons of licensed capacity	Two space per structure
<b>Guidance Services</b>	One space per 300 s.f. of gross floor area	None required
<b>Hospitals</b>	One space per two licensed beds	Three spaces per structure
<b>Hotels and Motels</b>	One space per rental unit, plus one space per employee on largest shift.	None required
<b>Industrial Uses</b>	.75 times the maximum number of employees during the largest shift	Two spaces per establishment
<b>Laundry Services</b>	One space per 200 s.f. of gross floor area	None required
<b>Libraries</b>	One space per 500 s.f. of gross floor area	One per structure
<b>Medical Clinics</b>	Five spaces per staff doctor, dentist, chiropractor	None required
<b>Multi-family / Apartments</b>	One space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
<b>Offices and Office Buildings</b>	One space per 200 s.f. of gross floor area	None required
<b>Residential (Single-family, attached and detached)</b>	Two spaces per dwelling unit with one required to be enclosed	None required
<b>Restaurants (General)</b>	Parking equal to 30 percent of licensed capacity	Two spaces per establishment
<b>Restaurants w/ drive-thru</b>	Greater of the two: One space per 40 s.f. of dining area, or One space per 150 s.f. of gross floor area	One per establishment
<b>Roadside stands</b>	Four spaces per establishment	None required
<b>Service Oriented Establishments</b>	One space per 200 s.f. of gross floor area	One per establishment
<b>Theaters, Auditoriums, and Places of Assembly</b>	One space per four persons of licensed capacity	One space per establishment
<b>Veterinary Establishments</b>	Three spaces per staff doctor	None required
<b>Wholesaling / Distribution Operations</b>	One space per two employees on the largest shift	Two spaces per establishment

**Section 7.03 Off-Street Parking: Shared Parking Requirements**

7.03.01 Notwithstanding the provisions of Section 7.02, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center of the development pattern is likely to occur, compliance with the standard parking ratios may be decreased by the Planning Commission and City Council.

**Section 7.04 Off-Street Parking: Parking for Individuals with Disabilities**

7.04.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then handicapped accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different lot, if accessibility is at least equivalent, in terms of distance from an accessible entrance.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000

7.04.02 Access aisles adjacent to accessible spaces shall be 60 inches wide minimum. However, one in every eight accessible spaces (1:8), but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated “van accessible” as required by Section 7.04.09 of this Ordinance. The vertical clearance at such spaces shall comply with 7.04.10 of this Ordinance. All such spaces may be grouped on one level of a parking structure.

7.04.03 Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.

7.04.04 Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2 percent) in all directions.

7.04.05 If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.04.11 of this Ordinance.

7.04.06 At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.04 of this Ordinance shall be provided in accordance with 7.04.01 of this Ordinance; except as follows:

1. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
2. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.

7.04.07 Valet parking facilities shall provide a passenger loading zone complying with 7.04.11 of this Ordinance located on an accessible route to the entrance of the facility. Sections 7.04.01 and 7.04.03, of this Ordinance do not apply to valet parking.

7.04.08 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

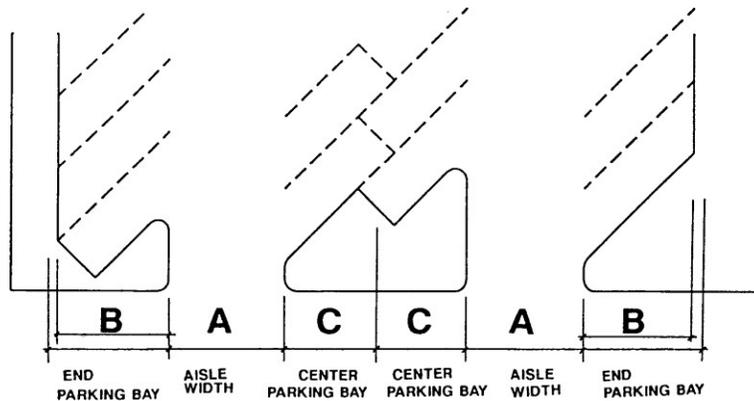
1. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
  2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closet to the accessible entrances.
- 7.04.09 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 7.04.02 shall have an additional sign with the words “Van Accessible” mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.
- 7.04.10 Minimum vertical clearance of 114 inches shall be provided at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.04.02, minimum vertical clearance of 98 inches shall be provided at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
- 7.04.11 Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Passenger loading zones and access aisles shall be level with surface slopes not exceeding 1:50 (2 percent) in all directions.

**Section 7.05 Off-Street Parking Design Criteria**

7.05.01 Standard parking stall dimensions shall not be less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

**Parking Configuration**

	90-degree	60-degree	45-degree
<b>Aisle Width (A)</b>			
One-way traffic	----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b>End Parking Bay Width (B)</b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
<b>Center Parking Bay Width (C)</b>	18 feet	18 feet	16 feet



- 7.05.02 Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.
- 7.05.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer.

**Section 7.06 Sign Area Computation**

**7.06.01 Computation of Area of Individual Signs**

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly identical to the display itself.

**7.06.02 Computation of Area of Multi-faced Signs**

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

**7.06.03 Computation of Height**

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, parcel, or tract of land, whichever is lower.

**Section 7.07 Sign Schedules**

7.07.01 Signs shall be permitted in the various districts according to the following schedule:

<u>Zoning District</u>	<u>TA</u>	<u>RS</u>	<u>R-1</u>	<u>R-2</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>I-1</u>	<u>I-2</u>	<u>CMD</u>	<u>HO</u>
<u>Sign Type</u>											
<b>Real Estate</b>	+	+	+	+	+	+	+	+	+	+	D
<b>Announcement</b>	+	+	+	+	+	+	+	+	+	C	D
<b>Wall</b>	-	-	-	-	+	+	+	+	+	C	D
<b>Name Plate</b>	+	+	+	+	+	+	+	+	+	+	D
<b>Billboard</b>	C	-	-	-	C	-	+	+	+	-	D
<b>Ground</b>	C	C	C	C	+	C	+	+	+	C	D
<b>Projecting or Pole</b>	-	-	-	-	+	-	+	+	+	C	D
<b>Projecting or Pole</b>	-	-	-	-	-	+	-	-	-	-	D
<b>Illuminated</b>	-	-	-	-	C	C	+	+	+	-	D
<b>Animated</b>	-	-	-	-	C	C	C	C	C	-	D

+: permitted

-: not permitted

C: permitted with Conditional Use Permit

D: same as underlying district, subject to the requirements of the Nebraska Department of Transportation

7.07.02 Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

<u>Zoning District</u>	<u>TA</u>	<u>RS</u>	<u>R-1</u>	<u>R-2</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>I-1</u>	<u>I-2</u>	<u>HO</u>
<b><u>Sign Type</u></b>										
<b>Real Estate</b>										
Max. Square Ft.	32	6	6	6	32	32	32	32	32	16
Max. Height Ft.	4	-	-	-	4	4	4	4	4	4
Max. Number	2	1	1	1	1	1	1	1	1	1
<b>Announcement</b>										
Max. Square Ft.	32	6	6	6	32	32	32	32	32	6
Max. Height Ft.	4	4	4	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1	1	1	1
<b>Wall</b>										
Max. Square Ft.	-	-	-	-	200 <sup>1</sup>	400 <sup>1</sup>				
Max. Height Ft.	-	-	-	-	45	45	45	45	45	45
Max. Number	-	-	-	-	1	1	1	1	1	1
<b>Name Plate</b>										
Max. Square Ft.	2	2	2	2	2	2	2	2	2	2
Max. Height	-	-	-	-	-	-	-	-	-	-
Max. Number	1	1	1	1	1	1	1	1	1	1
<b>Billboard</b>										
Max. Square Ft.	50	-	-	-	700	-	-	700	700	-
Max. Height Ft.	10	-	-	-	100	-	-	-	100	-
Max. Number	1	-	-	-	-	-	-	-	1	-
<b>Ground</b>										
Max. Square Ft.	50	32 <sup>2</sup>	32 <sup>2</sup>	32 <sup>2</sup>	32 <sup>2</sup>	32 <sup>2</sup>	32 <sup>2</sup>	50 <sup>3</sup>	50 <sup>3</sup>	-
Max. Height Ft.	10	10	10	10	10	10	10	10	10	-
Max. Number	1	1	1	1	1	1	1	1	1	-
<b>Projecting</b>										
Max. Square Ft.	-	-	-	-	100	-	100	100	100	-
Max. Height Ft.	-	-	-	-	40	-	40	40	40	-
Max. Number	-	-	-	-	1	1	1	1	1	-
<b>Pole</b>										
Max. Square Ft.	-	-	-	-	-	100 <sup>4</sup>	100 <sup>4</sup>	200	200	-
Max. Height Ft.	-	-	-	-	-	40	40	40	40	-
Max. Number	-	-	-	-	-	1	1	1	1	-
<b>Illuminated or Animated</b>										
Max. Square Ft.	-	-	-	-	36	36	36	36	36	200
Max. Height Ft.	-	-	-	-	45	45	45	45	45	45
Max. Number	-	-	-	-	1	1	1	1	1	1

1. Wall signs shall not exceed ten percent (10%) of the total wall area and shall not exceed the maximum square footage indicated in the table.
2. Ground signs may be increased from 32 square feet in area to 50 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
3. Ground signs may be increased from 50 square feet in area to 75 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
4. Pole signs may be increased from 100 square feet in area to 150 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
5. Pole signs may be increased from 200 square feet in area to 300 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.

7.07.03 The total area of all signs permitted on a lot shall include the total area of the faces of all permanent exterior signs visible from a public way, plus the area of permanent signs placed upon the surface of windows and doors, plus the area within the outlined enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.

7.07.04 A building or use located on a corner lot may increase the maximum square footage of its amount of signage by 20%.

**Section 7.08 Signs, Special Conditions**

- 7.08.01 Real Estate. Not more than two signs per lot may be used as a temporary sign. Real estate signs shall be setback 20 feet from the street right-of-way.
- 7.08.02 Billboard. Billboards, signboards, and other similar advertising signs shall be subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.
1. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
  2. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
  3. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- 7.08.03 Projecting or Pole. The lowest horizontal projecting feature of any projecting or pole sign shall be eight feet above the established grade level.
- 7.08.04 Awning or Hanging. The lowest point of any awning or hanging sign shall be eight feet above the established grade level.
- 7.08.05 Projecting or Pole: One free-standing or projecting sign for each enterprise on the premises of not more than 40 square feet per sign face, with a maximum width of six feet and a maximum height of six feet. The sign shall not be mounted in such a way as to exceed the height of the structure. The lowest horizontal projecting feature of any mounted sign shall be 10 feet above the established grade level.
- 7.08.06 Illuminated and Animated: The use of illuminated and animated signs in any Business District within the zoning jurisdiction of Yutan shall be limited and regulated as follows:
1. No sign is allowed, except for those displaying time and/or temperature, with lights which flash, move, blink, chase, or have any other animation effects, regardless of how the light is powered, such as electricity, battery, solar, or any other power source.
  2. Lighted or illuminated signs shall not have any portion which displays a concentrated area of light or illumination, nor produces a glare which creates a traffic hazard or nuisance which is otherwise detrimental to the public health, safety, or welfare.
  3. All lights shall be approved by the Underwriter's Laboratory and be affixed with the appropriate label.
  4. All lights shall be wired in compliance with the provisions of the current National Electric Code as adopted by the City, or in compliance with any other electric code that the City adopts to regulate electrical wiring within the City's jurisdiction.
  5. The lowest point of any illuminated sign shall be 10 feet above the established grade level. The height of the illuminated sign shall not exceed the height of the top of the building as measured from the top of the sign.
- 7.08.07 The City Council, after receiving the recommendation of the Planning Commission, shall review and decide upon each proposal for signs indicated as a "conditional use" under Section 7.07.01 according to the conditional use review procedure and criteria of Article 6 of this ordinance.

**Section 7.09 Home Occupations**

The following are the minimum standards required for a Home Occupation:

- 7.09.01 One unlit nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. The area may be increased to four square feet when attached flat against a building located on arterial streets.
- 7.09.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 7.09.03 No more than 50 percent of the home or an accessory building or structure shall be used for the home occupation.
- 7.09.04 No more than one employee or co-worker other than the resident(s) shall work from that site.

- 7.09.05 No retail sales are permitted from the site other than incidental sales related to services provided.
- 7.09.06 No exterior storage (excluding storage within accessory buildings or structures, pursuant to Section 7.09.03 above) shall be permitted.
- 7.09.07 Additional off-street parking may be required for the business.
- 7.09.08 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- 7.09.09 All businesses related to Family Child Care Home I and Family Child Care Home II shall be licensed in accordance with Neb. Rev. Stat. §71-1902 (R.R.S. 1997).

**Section 7.10 Wireless Communication Towers**

**7.10.01 Intent:**

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate broadcast towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. It is the intent of the City Council to regulate telecommunication facilities, towers and antennas in the City to protect residential areas and land uses from the potential adverse impacts caused by the of installation of towers and antennas through careful design, siting, and camouflaging; to promote and encourage shared use/collocation of towers and other antenna support structures rather than allow the construction of additional single use towers; to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound; and to ensure that towers and antennas are compatible with surrounding land uses.

**7.10.02 Definitions:**

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

1. **ANTENNA** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
2. **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
3. **APPLICANT** shall mean any person that applies for a Tower Development Permit.

4. **APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.
5. **CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
6. **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.
7. **OWNER** shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. **SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
10. **STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
11. **TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
  - a). Any Conforming Commercial Earth Station antenna six feet or less in diameter.
  - b). Any earth station antenna or satellite dish antenna three feet or less in diameter.
12. **TOWER** shall mean a self-supporting lattice, guyed, or monopole structure, which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. **TOWER DEVELOPMENT PERMIT** shall mean a permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
14. **TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

**7.10.03 Location of Towers and Construction Standards**

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the City Council and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the Zoning Office and shall pay a filing fee.

3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this Ordinance shall conform to the Building Codes and all other construction standards set forth by City, County, federal, and state laws and applicable American National Standards Institute (ANSI) standards. Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the Zoning Office.

**7.10.04 Application to develop a Tower**

Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Office for a Tower Development Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. A performance bond in the amount of \$50,000 dollars for the expenses of removal and disposal of the tower.

**7.10.05 Tower Development Permit: Procedure**

After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the City Council, following all statutory requirements for publication and notice, to consider such application and the recommendation of the City Planning Commission. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to Section 6.03 of this Ordinance. The Planning Commission and City Council may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

**7.10.06 Setbacks and Separation or Buffer Requirements**

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
3. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100 percent of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
  - a). Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
  - b). Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

**7.10.07 Structural Standards for Towers Adopted**

The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

**7.10.08 Illumination and Security Fences**

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a distance of 300 percent of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will prevent, to the extent practical, unauthorized climbing of said structure.

**7.10.09 Exterior Finish**

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and City Council as part of the application approval process. All towers which must be approved as a conditional use shall be stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

**7.10.10 Landscaping**

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.

**7.10.11 Maintenance, Repair or Modification of Existing Towers**

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request,

subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.

**7.10.12 Inspections**

The City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal and state law or applicable ANSI standards. Inspections shall be made by either an employee of the City's Zoning Office, Zoning Administrator, or a duly appointed independent representative of the City.

**7.10.13 Maintenance**

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

**7.10.14 Abandonment**

If any tower shall cease to be used for a period of one year, the Zoning Office shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Yutan codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

**7.10.15 Satellite Dish Antennas, Regulation**

Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Yutan only upon compliance with the following criteria:

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
2. Single family residences may not have more than one satellite dish antenna over three feet in diameter.
3. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet in diameter.
4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of Yutan, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

**Section 7.11 Fences (Ordinance 790, Effective 5-17-22)**

No fence shall be constructed within the zoning jurisdiction of the City of Yutan unless it is constructed in conformance with the following requirements:

**7.11.01 Height Limitations**

The height limitation for fences shall be 76 inches above ground level except as provided herein.

1. No fence shall be constructed within a required front yard of any lot, except as may be otherwise provided herein.
  - a. Within the RS district, fences may be constructed within the required front yard, provided, however, such fence shall not exceed 48 inches in height, and such lot shall be a minimum of five acres in size.
2. The height of a fence shall be determined by the vertical distance measured from the established grade level at the nearest sidewalk, top of curb, or other public right-of-way to the top of the highest part of the fence. Earth berms, whether manmade or not, terraces, and retaining walls that elevate the fence shall be considered a part of the fence and shall be included in the height of the fence. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures shall comply with the provisions of this Ordinance.
3. Where it is demonstrated that for security purposes the perimeter fencing around a factory or building located in an area zoned as an Industrial District must be higher than six feet in height may be approved through a Conditional Use Permit.
4. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
5. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.

**7.11.02 Design Criteria/Location**

1. No fence shall be constructed in the city limits of the City of Yutan without a proper permit,
2. Applicants for a fence permit must first locate the property pins or have a licensed surveyor locate or set the property pins to confirm the location of the property lines.
3. Permitted types of fences shall include chain link, wood (including split rail), wrought iron, vinyl and other ornamental fencing, or masonry. No chicken wire, hog panels, wood pallets. All fence types must be approved in the permit process.
4. Side yard shall include the area behind the front corner of the structure, to the back lot line.
5. No fence shall be constructed closer to the street than the property line, no fence shall be allowed in the Right-of-Way. If a sidewalk is located in the side yard, no fence shall enclose the sidewalk, or be constructed nearer than twenty-four inches (24") from the sidewalk.
6. No fence or vegetation shall be situated or constructed in such a way as to obstruct vehicular traffic or otherwise create a traffic safety hazard. No fence or vegetation shall be situated or constructed within the required sight triangle.
7. The use of barbed wire in the construction of any fence is prohibited except:
  - a. Perimeter security fencing of buildings constructed in a Highway Commercial or Industrial District. The plans and specifications for any such fencing must be approved by the City before the commencement of construction.
  - b. Farm fencing constructed for agricultural purposes on parcels of land 20 acres or more in the Agricultural or the Transitional Agriculture District.
8. All supporting posts for fence construction shall be set in concrete except for agricultural fencing in the Transitional Agriculture District.
9. All fences shall be maintained in good repair.
10. All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners, pursuant to a written agreement filed with the City, agree to build one (1) fence on the common lot line of adjacent side yards or back yards.
11. Chicken wire, rabbit fence, and other garden fences will be allowed around gardens and planters and shall be maintained in accordance with the regulations.

**7.11.03 Electric Fences.**

No electric fence shall be constructed or maintained within the City of Yutan or within its extraterritorial zoning jurisdiction except in the Agricultural or the Transitional Agriculture District.

7.11.04 *Facing.*

The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

7.11.05 *Fences in existence as of the date of adoption of this Ordinance.*

Any existing fence which was in conformity with the provisions of any previous ordinance and which was in place as of the date of adoption of this Ordinance may remain without change, notwithstanding same may be in conflict with one or more provisions of this Ordinance. However, any replacement or change of said existing fence or addition of a new fence shall meet the requirements of this Ordinance.

7.11.06 *Swimming Pools.*

All above- or in-ground swimming pools of a permanent nature constructed within the zoning jurisdiction of the City of Yutan shall comply with the regulations of the current International Residential Code adopted by The City of Yutan.

**Section 7.12 Performance Standards for Industrial Uses**

7.12.01 *Physical Appearance:*

All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

7.12.02 *Fire hazard:*

No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Yutan.

7.12.03 *Noise:*

No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

7.12.04 *Sewage and Liquid Wastes:*

No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

7.12.05 *Air Contaminants:*

1. Air Contaminants and smoke shall be less dark than designated Number One on the Ring Ieman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other

considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.

- 4. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and those odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
- 5. **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.
- 6. **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousands (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
- 7. **Glare and heat:** All glares such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

**Section 7.13 Wind Energy Systems**

In any zoning district, a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following condition:

- 7.13.01 The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five rotor distances figured by the size of the largest rotor.
- 7.13.02 The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.
- 7.13.03 To limit climbing access to the tower, a fence six feet high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than 12 feet from the ground, or the tower may be mounted on a roof top.
- 7.13.04 The setback distances from all lot lines to any tower support base shall be determined according to the following setback table:

7.13.05 SETBACK TABLE

<u>Rotor Diameter</u>	<u>Setback Distance</u>	<u>Minimum Lot Area<sup>1</sup></u>
5 feet	100 feet	1 Acre
10 feet	165 feet	2.5 Acres
15 feet	220 feet	4.5 Acres
20 feet	270 feet	6.75 Acres
25 feet	310 feet	9.0 Acres
30 feet	340 feet	10.75 Acres
35 feet	365 feet	12.25 Acres

- 1. Where there are several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.
- 7.13.06 Data pertaining to the machine’s turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.<sup>1</sup>
- 7.13.07 The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

<sup>1</sup> U.S. Department of Energy – EPRI Wind Turbine Verification Program  
Electric Power Research Institute – 3412 Hillview Avenue, Palo Alto, California 94304

**Section 7.14 Self Storage Units / Convenience Storage Units**

- 7.14.01 Minimum lot size of the Self Storage facility shall be two acres.
- 7.14.02 Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- 7.14.03 All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt, or asphaltic concrete. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
- 7.14.04 All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
- 7.14.05 No storage may open into the front yards.
- 7.14.06 Facilities must maintain landscape buffer yards of 50 feet adjacent to any public Right-of-Way and 20 feet adjacent to other property lines, unless greater setbacks are required, a total of 35 percent of all buffers shall be landscaped.
- 7.14.07 Height limitations shall require a maximum height of 20 feet for any structure in the facility.
- 7.14.08 The perimeter of each facility shall be fully enclosed by fencing or screen walls. Perimeter fencing shall be provided at a minimum of six feet and maximum of eight feet in height, of material approved by the Building Inspector. Fencing shall be constructed behind required buffer yards.

**Section 7.15 Auto Wrecking Yards, Junk Yards Salvage Yards and Scrap Processing Yards**

- 7.15.01 The use shall be located on a tract of land at least 300 hundred feet from a residential district.
- 7.15.02 The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded by a solid fence or wall at least eight feet high.
- 7.15.03 The fence or wall shall be uniform in height, texture, and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the junk from normal view of the neighborhood.
- 7.15.04 The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard. No scrap, junk or other salvaged materials may be piled or stacked so to exceed the height of the enclosing fence or wall.
- 7.15.05 No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public Right-of-Way.
- 7.15.06 Burning of paper, trash, junk or other materials shall be prohibited.

**Section 7.15(a) Public Utility Facilities Lot Size Requirements**

Notwithstanding any other provision of these regulations, none of the following public utility or public service uses shall be required to comply with the lot size requirements and bulk regulations of the zoning district in which they are located:

- .01 Electric and telephone substations and distribution systems.
- .02 Gas regulator stations.
- .03 Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the transmission of electricity, gas or water.
- .04 Pumping stations.
- .05 Radio, television and micro-wave transmitting or relay stations and towers, except as may be required to meet setback requirements.
- .06 Transformer stations.
- .07 Water tower or standpipes.

**Section 7.16 Funeral, Mortuary or Crematory Services**

- 7.16.01 These uses shall be located on a collector or arterial street as shown in the Comprehensive Plan.

**Section 7.17 Landscaping Requirements**

7.17.01 *Intent:*

The intent of the landscaping requirements are to improve the appearance of lot areas and soften paved areas and buildings; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the City of Yutan by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with the provisions of this section.

Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

7.17.02 *Application and Scope:*

The provisions of the section shall apply to all new construction and development including, but not limited to, structures, dwellings, buildings, parking lots, residential subdivisions, office parks, shopping centers, and redevelopment for which either a building or zoning permit approval is required, except the following:

1. Agricultural buildings, structures and uses.
2. Replacement of lawfully existing structures or uses.
3. Additions, remodeling or enlargements of existing uses or structures provided that the enlargement of surface parking of less than 4,000 square feet shall not be excepted. Where such enlargement is less than 4,000 square feet, the provisions of this section shall apply only to that portion of the lot or site where the enlargement occurs.
4. Where there is more than one lot or site being developed together as one unit with common property lines, the entire site shall be treated as one lot or site for the purpose of conforming to the requirements of this section.
5. When a lot or site with more than one owner has been partially developed at the time of the adoption of this section. The application of the requirements of this section shall be determined by the City Council with the recommendation of the City Planning Commission.

7.17.03 *Landscaping Requirements:*

Landscaping shall be required and provided as follows:

1. Single-family and two-family dwellings shall provide and maintain a minimum of 30 percent of lot area as a permeable and uncovered surface that contains living material. Single-family and two-family dwellings shall be exempt from all other requirements of this section except for Plant Material and Maintenance.
2. **Street Frontage:**  
A landscaped area having a minimum depth of 15 feet from the property line shall be provided along the street frontage of all lots or sites including both street frontages of corner lots.
  - a. The required landscaped area 15 feet may be reduced to 10 feet if an equal amount of square feet of landscaped area, exclusive of required side and rear yard landscaped areas, is provided elsewhere on the site.
  - b. Exclusive of driveways and sidewalks not more than 25 percent of the surface of the landscaped area shall have inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf.
  - c. A minimum of one tree shall be planted for every 40 lineal feet or fraction thereof.
3. **Side Yard:**  
A landscaped area having a minimum depth of 10 feet from the property line shall be provided along the side yard abutting any Residential District.
  - a. Exclusive of driveways and sidewalks, not more than 10 percent of the surface of the landscaped area shall be inorganic materials such as brick, stone, concrete, asphalt, aggregate, metal or artificial turf. If the slope of ground within the landscape area exceeds 2:1, not more than 50 percent of the surface shall be inorganic material.
  - b. Landscaping shall include a hedge screen or a random or informal screen of plant materials substantially blocking the views and attaining a minimum height of six feet within four years. A landscaped earth berm not exceeding six feet in height may be used in combination with the plant materials.
  - c. A solid wood and/or masonry fence or wall six feet in height may be used in lieu of or in combination with the plant materials required, provided that such fence is at least five feet from the property line.
4. **Rear Yard:**  
A landscaped area having a minimum depth of 10 feet from the property line shall be provided along the rear yard abutting any Residential District.
  - a. The landscape requirements for the rear yard shall be the same as for the side yard described in section 7.17.04 (3)

5. Off-Site Parking Lots:  
Parking lots not located on the property where the use served is located, shall conform to this section provided that a parking lot with an area of 4,000 square feet or less shall be exempt from the requirements of this section.
6. Parking Area Interior Landscaping:  
Off-street parking lots and other vehicular use areas shall have at least 10 square feet of interior landscaping for each parking space excluding those spaces abutting a perimeter for which landscaping is required by other sections of this Ordinance, and excluding all parking spaces which are directly served by an aisle abutting and running parallel to such perimeter.  
  
The front of a vehicle may encroach upon any interior landscaped area when said area is at least four feet in depth per abutting parking space and protected by curbing. Two feet of said landscaped area may be part of the required depth of each abutting parking space. No more than two drive aisles shall be placed parallel to one another without an intervening planter aisle of at least four feet in width; eight feet is required if parking spaces overlap the curbs of the aisle.
7. Perimeter Landscaping:  
All commercial office and industrial developments, buildings, or additions thereto shall provide perimeter landscaping to include one tree for each 40 lineal feet or fraction thereof. Such landscaped area shall consist of sufficient area for the species of tree to be planted. Other perimeter landscaping shall require approval of the Planning Commission and City Council.
8. Plant Materials:  
Landscape living plant materials shall consist of trees, shrubs, ground covers, vines, grasses, flowers, and any other plants.
  - a. The plant nomenclature shall conform to the recommendations and requirements of the “American Standard for Nursery Stock”, as amended, published by the American Association of Nurserymen, Inc.
  - b. Size. The minimum size of plant materials to be installed shall be as follows:
    - (1) Deciduous trees having a mature height of 20 feet or less shall have a minimum caliper of one and one-fourth inches.
    - (2) Deciduous trees having a mature height of more than 20 feet shall have a minimum caliper of one and one-half inches.
    - (3) Evergreen (conifer) trees shall have a minimum height of three feet.
    - (4) Deciduous shrubs shall have a minimum height of 18 inches.
    - (5) Evergreen shrubs shall have a minimum spread of 18 inches.
9. Planting Schedule:  
The plant materials shall be installed prior to the issuance of the certificate of occupancy. If, because of seasonal reasons, the landscaping cannot be installed, a surety satisfactory to the City of Yutan equal to the contract cost shall be submitted to the City. The City shall release the surety when the plant materials have been installed. If the plant materials have not been installed within 12 months of the effective date of the certificate of occupancy, the City may install the required landscaping.
10. Required Plans:  
Upon application of a building permit, a landscape-planting plan shall be submitted to the City of Yutan for review and approval.
  - a. Three copies of the plan shall be submitted.
  - b. The plan shall include, but not be limited to, the following:
    - (1) Property lines and other physical features necessary to show the proposed installation of plants.
    - (2) The location and spacing of plant materials.
    - (3) The scientific name, common name, plant size, quantity and planting method.
    - (4) The plan shall have a scale of not more than one-inch equals 100 feet.
    - (5) When necessary, existing and proposed contours shall be provided.

7.17.04 Screening Requirements

1. All parking areas or vehicular use areas abutting a residential district or public right-of-way shall be screened from grade level to a height not less than three feet.
2. All commercial and industrial uses that abut residential or office districts shall provide screening not less than six feet in height along the abutting property line(s).
3. Screening required by this section shall be equivalent to the following:
  - a. Solid fences or walls as approved by the Planning Commission on the final development plan.
  - b. Hedges, shrubs, or evergreen trees of 36 inches in height at planting spaced appropriately to provide a solid screen within three years after planting.
  - c. Berms of not less than three feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 7.17.04 (3a) above.
  - d. All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid enclosure six-foot in height around each unit. Said enclosure shall be of complementary materials suitable to the Planning Commission.
  - e. All plant material used for screening shall meet the standards in section 7.17.03

7.17.05 Installation and Maintenance of Landscaping and Screening

1. Installation:

All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. A qualified code enforcement officer or other planning official shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Temporary occupancy permits may be issued due to weather related conditions upon approval by the Building Official.
2. Maintenance:

The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in proper condition. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance to those items requiring replacement. Underground sprinkler systems shall be provided to serve all landscaped areas except individual one and two family dwellings unless an equivalent watering system is approved by the Planning Commission.

All required screening and fencing shall be maintained and, whenever necessary, replaced with materials that provide equivalent size, density, and appearance. All landscaping and screening shall be kept free from refuse and debris so as to present a healthy, neat and orderly appearance. Lawn grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

7.17.06 Preliminary Plan Approval

A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat, preliminary CMD, or preliminary site plan for development, for review and recommendation by the Planning Commission and approval by the City Council. Said Plan shall be in sufficient detail to provide the Commission and City Council with a reasonable understanding of what is being proposed. Site calculations used in computing quantities shall also be submitted which are proposed to be used to satisfy the required amounts of landscaping.

7.17.07 Final Plan Approval

A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the Planning Commission on separate sheets for review and recommendation and approval by the City Council along with a planting schedule at final development plan submission.

7.17.08 Parking Lot Plan Approval

A final site development plan shall be submitted to the Planning Commission with the requisite landscaping and screening required herein for each of the following types of parking lot improvements:

1. New construction.
2. Expansion of existing facilities.
3. Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. Modifications to the required parking lot landscaping and screening may be granted by the Planning Commission after review of submitted plans and in consideration of surrounding uses.
4. No parking lot shall be exempted from these regulations; unless previously exempted.

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**ARTICLE 8: BOARD OF ADJUSTMENT**

**Section 8.01 Members, Terms and Meetings**

Pursuant to Neb. Rev. Stat. §19-908 (R.R.S. 1997): The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. The first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

**Section 8.02 Appeals to Board, Record of Appeal, Hearings and Stays**

As provided in Neb. Rev. Stat. §19-909 (R.R.S. 1997): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

**Section 8.03 Powers and Jurisdiction on Appeal**

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; and
2. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and
3. To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

No such variance shall be authorized by the Board unless it finds that:

1. The strict application of the Ordinance would produce undue hardship; and
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

**Section 8.04 Appeals to District Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. Rev. Stat. §19-912, (R.R.S.1997).

**ARTICLE 9: AMENDMENTS**

**Section 9.01 Amendments**

Pursuant to Neb. Rev. Stat. § 19-905 (R.R.S.1997): This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the legislative body of such municipality. The provisions of Neb. Rev. Stat. §19-904 relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches (1-1/2") in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than 50 dollars or more than 100 dollars. If the record title owners of any lots included in such proposed change be nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten days prior to such hearing. At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least ten 10 days prior to the date of the hearing, if they can be served with such notice within the county where such real estate is located. Where such notice cannot be served personally upon such owners or occupants in the county where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last- known addresses at least ten 10 days prior to such hearing. The provisions of this section in reference to notice shall not apply, (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City, but only the requirements of Neb. Rev. Stat. § 19-904 shall be applicable.

**Section 9.02 Planning Commission Review**

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first the consideration by the City Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within 30 days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- 2.02.01 At the time that application for a change of zoning district or amendment to the zoning text is filed with the Planning Commission, there shall be deposited a fee, as established by the City Council, to cover investigation, legal notices, or other expenses incidental to the determination of such matter.
- 2.02.02 An application for a change of district to a Light Industrial District shall contain a minimum area of 10,000 square feet. The area, if more than one (1) parcel of land is involved, shall be contiguous, exclusive of any streets or easements.
- 2.02.03 The foregoing requirements in 9.02.02 shall not apply in the case of an extension of a Light Industrial District.

**Section 9.03 Zoning Administrator**

The provisions of this Ordinance shall be administered and enforced by a Zoning Enforcement Officer appointed by the City Council, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

**Section 9.04 Zoning Permits**

The following shall apply to all new construction and all applicable renovations and remodels within Yutan's zoning jurisdiction:

9.04.01 It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a zoning permit for such work.

9.04.01 Issuance of a zoning permit. In applying to the Zoning Administrator for a zoning permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. Applicant shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a zoning permit for such excavation or construction. If a zoning permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A zoning permit shall become void 12 months from the date of issuance unless substantial progress has been made by that date on the project described therein.

**Section 9.05 Building Permits**

No structural construction shall commence before the City's Building Inspector issues a building permit when a permit is required by the Yutan City Code. The applicant shall obtain a building permit application from the City Clerk, and present the completed application and the required building plans to the City Building Inspector. The Building Inspector shall issue a building permit when satisfied that the building plans comply with the Yutan Building Code. All provisions of the Yutan Building Code, specifically including those that refer to building plan requirements, such as size, scale, and contents, and as may be amended from time to time, are incorporated herein by reference.

**Section 9.06 Certificate of Occupancy**

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of occupancy stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within five (5) days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

**Section 9.07 Penalties**

Pursuant to Neb. Rev. Stat. §19-913 (R.R.S.1997), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed 100 dollars for any one (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

**Section 9.08 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Neb. Rev. Stat. §§19-901 to 19-914 (R.R.S.1997), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

**ARTICLE 10: COMPREHENSIVE PLAN RELATIONSHIP**

These zoning ordinances are designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the governing body.

**ARTICLE 11: LEGAL STATUS PROVISIONS**

**Section 11.01 Separability**

Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**Section 11.02 Purpose of Catch Heads**

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

**Section 11.03 Repeal of Conflicting Ordinances**

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**Section 11.04 Effective Date**

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

ADOPTED AND APPROVED by the City Council of Yutan, Nebraska,

This \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Seal of the City of Yutan)

